



Terms and Conditions of Sale of Services

1 Definitions and Interpretation

1.1 In these terms and conditions, unless the context otherwise requires:

- (a) **"Agreement"** has the meaning ascribed to it in Clause 2.1;
- (b) **"Affiliate"** means with respect to any Person, any company, corporation, association or other Person, which, directly or indirectly, Controls, is Controlled by, or is under common Control with the first named Person, wherein **"Control"** means the power to direct the management or decisions of a person or entity whether through (a) the ownership of voting stock, including the direct or indirect ownership of 50% or more of the shares carrying the right to vote; or (b) the ability to appoint a majority of the board of directors or equivalent management body of such person or entity; or (c) any other lawful means. Notwithstanding the foregoing, in relation to Carrier, the term **"Affiliate"** shall include Persons directly or indirectly owned and/or Controlled by Carrier Global Corporation (**"Carrier Global"**). If such Person is an individual, the term **"Affiliate"** shall include a relative of such individual;
- (c) **"Carrier"** means the Carrier entity specified on the Sales Invoice;
- (d) **"Customer"** means the Person named in the Sales Invoice;
- (e) **"Customer's Personnel"** means any subcontractor, employee, agent or officer of the Customer or such other person engaged by or representing the Customer from time to time;
- (f) **"Equipment"** means the Customer's equipment as referenced in the quotation for the Services issued by Carrier to the Customer;
- (g) **"Fees"** means the fees payable by the Customer in consideration of Carrier's supply of the Services as referenced in the quotation and the purchase order;
- (h) **"Indirect Taxes"** means any value added, ad valorem, sales, use, goods and services, consumption, transaction, services and similar tax chargeable on the supply or deemed supply of goods and services under applicable laws, regardless of whether such tax is recoverable, and including (without limitation) any interest, penalties or other additions to the tax thereon;
- (i) **"order"** or **"purchase order"** means any order for or any statement of intent to purchase any Services placed by the Customer with Carrier;
- (j) **"Sales Invoice"** means the sales invoice issued by Carrier to the Customer;
- (k) **"Services"** means the services supplied by Carrier to the Customer as referenced in the quotation issued by Carrier to the Customer, and (where applicable) as varied by the Variations pursuant to clause 6;
- (l) **"Site"** means the land or premises referred to in the quotation and purchase order where the Equipment is located;
- (m) **"Territory"** means in the case of Thailand,; and anywhere else, the territory in which the Services are being provided;
- (n) **"Variation"** means an increase or change to the Services to be supplied, including a change to any specification; and
- (o) **"WHS Law"** means the relevant work health and safety legislation applicable in the Territory.

1.2 These terms and conditions:

- (a) replace all prior terms and conditions issued by Carrier to Customer;
- (b) take precedence over any terms set out in the Customer's purchase order, to the extent of any inconsistency;
- (c) are subject to any special conditions specified on the Sales Invoice shall, to the extent they are inconsistent with these terms and conditions, take precedence over these terms and conditions; and
- (d) the expression **"Person"** includes each individual, body politic, corporation, association (incorporated or unincorporated), statutory authority or any other authority identified as the Customer, and where the Customer comprises more than one Person, these terms and conditions bind them jointly and severally.

2 Services

2.1 Carrier agrees to provide the Services on the Equipment and Customer agrees to pay Carrier the Fees, in accordance with the Agreement:

- (a) service-specific terms described in the quotation issued by Carrier to the Customer, if applicable;
- (b) these terms and conditions;
- (c) remaining attachments, appendices, schedules, forms, specifications and other referenced documents (if any), (together, **"this Agreement"**).

If there is any inconsistency between the above documents, the order of precedence will be the above order that the documents are listed to the extent of any inconsistency.

2.2 Once an order has been accepted by Carrier, it cannot be cancelled by the Customer.

3 Pricing

3.1 Unless otherwise agreed in writing, the Fees:

- (a) are based on the Services being carried out during Regular Business Hours (subject to alteration by Carrier);
- (b) are based on having continuous, uninterrupted, and unhindered access to the required people, Equipment, facilities, utilities, and areas where the Services are to be carried out; and
- (c) do not cover any costs associated with the discovery of unforeseen conditions or any other event beyond the reasonable control of Carrier.

3.2 Any additional costs arising from a change in the assumptions set out in clause 3.1 will be treated as a Variation under clause 6.

3.3 Carrier may increase the Fees on five (5) Business Days' written notice to the Customer where there is a material change in the costs of the raw materials applicable in the Services provided by Carrier as listed on the London Metal Exchange.

3.4 If the Customer pays a Sales Invoice by credit card, Carrier may charge, and the Customer agrees to pay, a surcharge for paying by credit card. The Customer will be notified of the relevant surcharge before paying a Sales Invoice by credit card.

3.5 In cases where Carrier intends to progress bill the Customer for the supply of the Services, Carrier will do so on a percentage (%) of completion of works basis and specify the billing schedule in its written quotation. A separate Sales Invoice will be raised for each progress payment in accordance with the billing schedule.

3.6 All payments to be made by the Customer to Carrier pursuant to the terms of this Agreement are stated exclusive of Indirect Taxes, freight and/or delivery charges, which amounts shall be added and payable at the same time as the price to be paid by the Customer in accordance with this Agreement, unless otherwise agreed by the parties in writing.

3.7 Carrier will not be bound by any condition attaching to the Customer's purchase order or acceptance of a sale unless Carrier in writing expressly accepts such conditions.

4 Payment

4.1 The Customer must make immediate payment upon receipt of the Sales Invoice. If the Customer has an approved credit account with Carrier, the Customer must pay for the Services supplied within 30 calendar days from the date of the relevant Sales Invoice unless otherwise agreed in writing by Carrier. Time is of the essence in respect of the Customer's obligation to make payment for Services supplied by Carrier to the Customer.

4.2 If any part of a Sales Invoice is in dispute, the balance will remain payable and must be paid when due. The Customer has no right to set-off any claim against Carrier from moneys owing to Carrier.

4.3 If the Customer pays an invoice by credit card, Carrier may charge, and the Customer agrees to pay, a surcharge for paying by credit card. The Customer will be notified of the relevant surcharge before paying an invoice by credit card.

4.4 Should the Customer fail to make payment by the due date for payment of an invoice, Carrier may charge the Customer:

- (a) if the Services are supplied anywhere else, at 1.25% per month.

4.5 Payment of Fees by the Customer within the specified period is an essential term of this Agreement and failure to pay Carrier by the due date will constitute a material breach pursuant to Clause 13.

5 Security

5.1 The Customer agrees to pay all costs and expenses (including legal costs and commissions paid by Carrier to any commercial or mercantile agent and dishonour fees) incurred by Carrier in connection with the recovery of overdue amounts and enforcing the security interest and charge referred to in clause 5.2.

5.2 As security for any and all amounts due by the Customer to Carrier from time to time, the Customer grants a security interest in favour of Carrier in all of its present and after-acquired real and personal property, including all legal and equitable interests of whatsoever nature held in any and all real property.

5.3 The Customer agrees, on request by Carrier, to execute any documents and do all things reasonably required by Carrier to perfect the charge and security interest given in clause 5.2 including registering a mortgage security over any real property. The Customer indemnifies Carrier on an indemnity basis against all costs and expenses incurred by Carrier in connection with the preparation and registration of any such steps needed to perfect and enforce the security interest and charge and/or prepare or register the mortgage documents.

5.4 The Customer consents unconditionally to Carrier lodging a caveat or caveats noting its interest in any real property in support of the mortgage security granted to Carrier pursuant to clause 5.2.

5.5 A statement in writing signed by an authorised officer of Carrier setting out the moneys due or owing to Carrier at the date of the statement shall be sufficient evidence of the amount so due or owing until the contrary is proven.

5.6 The Customer hereby irrevocably appoints all and any of Carrier's officers or finance manager or a lawyer engaged by Carrier as Carrier's lawful attorney for the purposes of doing all such acts and things and executing all such documents necessary to enable Carrier to register a non-lapsing caveat or other similar instrument over any such freehold or leasehold property and for such purposes a declaration of default duly executed for and on behalf of Carrier by such persons shall be deemed sufficient evidence of such default.

6 Variations

The Customer shall pay for any Variation as follows:

- (a) if Carrier has quoted an amount for such Variation, the amount quoted; or
- (b) if Carrier has not given any quote, an amount calculated for the Variation by Carrier in accordance with Carrier's standard rates for such Works applicable at that time; and
- (b) Carrier is entitled to charge the Customer for any design, management, overhead and profit for each Variation carried out.

7 Customer's Obligations

7.1 The Customer shall:

- (a) provide Carrier personnel (or its approved subcontractors) access to the Site;
- (b) permit Carrier to use existing building services at the Site, if required in order to perform the Services;
- (c) ensure that the Customer and the Customer's Personnel:
 - (i) do not interfere with or disrupt, delay or hinder Carrier, its employees, agents, subcontractors or other persons engaged by Carrier or prevent them from carrying out the Services or cause them to incur additional cost; and
 - (ii) reasonably cooperate with Carrier and its employees, agents and subcontractors;
- (d) ensure that the Site is at all times a safe working environment and complies with all applicable WHS Law. The Customer acknowledges that Carrier has not been engaged as the principal contractor for the purposes of WHS Law in carrying out the Services.

7.2 If Carrier considers that the Site is unsafe, it may delay or cease performance of the Services until the Site is restored to a safe condition. In addition to any of Carrier's rights under this Agreement, the Customer acknowledges that any such delay or cessation of the Services:

- (a) will not constitute a breach of this Agreement; and
- (b) will not entitle the Customer to the payment of a financial penalty or any other damages.

8 Warranty

8.1 Certain legislation may imply warranties, terms or conditions that cannot be excluded, restricted or modified. If those statutory provisions apply, to the extent to which Carrier is entitled to do so, its liability is limited at its option to supplying the Services again.

8.2 The Customer expressly acknowledges and agrees that it has not relied upon and Carrier is not liable for any advice given by Carrier, its agents or employees in relation to the suitability for any purpose of materials supplied by Carrier, unless that advice is expressly confirmed in writing by Carrier as a condition of the Agreement.

9	<p>Force Majeure</p> <p>Carrier shall not be in breach of the Agreement or be liable to the Customer if Carrier fails to perform or delays the performance of an obligation as a result of an event beyond its reasonable control, including, but not limited to, strikes, industrial disputes, fire, flood, act of God, war, insurrection, vandalism, sabotage, invasion, riot, national emergency, piracy, hijack, acts of terrorism, embargoes or restraints, extreme weather or traffic conditions, temporary closure of roads, legislation, regulation, order or other act of any government or governmental agency.</p>	15.2	The parties irrevocably submit to the exclusive jurisdiction of the courts of the Territory, and the court of appeal from such courts in respect of any claims, proceedings and matters arising out of or in respect of these terms and conditions.
10	<p>Sponsored Travel</p> <p>Where the provision of the any Services by Carrier under these terms and conditions requires Carrier to provide any sponsored travel to the Customer, each of Carrier and the Customer agrees that the nature and extent of the sponsored travel, including, without limitation, the number and identity of participants, locations visited, and activities undertaken, shall be limited to activities directly related to the provision of such Services, subject to mutual agreement of Carrier and the Customer, Carrier policy and internal pre-approval requirement, and strictly comply with the Customer's policies, as well as all applicable laws and regulations, including, without limitation, all applicable laws and regulations prohibiting corruption. For the purposes of this clause 10, "sponsored travel" means any immigration assistance, accommodations for overnight stay or sleep in any form, and/or transportation in any form.</p>	16.	<p>COMPLIANCE</p> <p>Without limiting any other provision of these terms and conditions, the Customer, its owners, directors, employees, contractors or agents must:</p> <ol style="list-style-type: none"> comply at all times with applicable laws, including laws prohibiting collusion, conflicts of interest, corruption and unfair competition; refrain from offering, promising, attempting to provide or providing (directly or indirectly) any Carrier employee, any employee of its Related Body Corporates, or any government official any ownership or financial interest in the Customer; and comply with any anti-bribery or anti-corruption law of any jurisdiction including the <i>Criminal Code Act 1995</i> (Cth), the United States of America's Foreign Corrupt Practices Act, the United Kingdom's Bribery Act and that of any country which is or will become a signatory to the OECD Convention on Combating Bribery of Foreign Public Officials and in particular, the Customer must not pay, offer or promise to pay, or authorise the payment of, any monies or anything of value, directly or indirectly, to any government official or employee, any official or employee of a state-run or state-owned or controlled enterprise or entity, any official or employee of a public international organisation, any candidate for political or public office, any official or employee of any political party, or any family member or relative of such persons or any political party for the purpose of influencing any act or decision of any such official, employee, candidate, political party, enterprise or entity, public organisation, or government to obtain or retain business, or direct business to any person or entity, or for any other improper advantage or purpose.
11	<p>Personal Information</p>	17	<p>General</p>
11.1	<p>The Customer acknowledges, confirms and agrees:</p> <ol style="list-style-type: none"> In connection with Carrier's delivery of the services, the Customer will need to provide certain personal information of its employees and Carrier will process such information for the following purposes: <ol style="list-style-type: none"> to perform Carrier's obligations under the Agreement constituted by these terms and conditions; to consolidate, review, assess and evaluate Carrier's products and services; to respond to a legitimate legal request from law enforcement authorities or other government regulators; to support the sale or transfer of all or part of Carrier's business or assets (including, through bankruptcy or insolvency); to investigate suspected or actual illegal activity; and/or to comply with Carrier's obligations under applicable laws and regulations. The Customer shall have obtained the consents of such of its employees, and employees of its affiliates, agents and other partners whose personal information it has provided to Carrier in connection with the purposes listed in clause 11.1(a), and the terms on which Carrier will process such personal information as set out under this clause 11 ("Personal Information"). Carrier, and its parent company, Carrier Global, are global companies with locations in many different countries. Accordingly, Carrier may transfer the Personal Information from one legal entity to another or from one country to another within the Carrier Global group of companies in order to accomplish the purposes listed above. These countries include, at a minimum, the United States, the member states of the European Union, Canada, and other countries, including some in Asia. Carrier will transfer the Personal Information consistent with applicable legal requirements and only to the extent necessary for the purposes set out above. Carrier may share the Personal Information it has obtained with: <ol style="list-style-type: none"> its affiliates, with a view to reviewing, assessing and evaluating its product and service offerings; and service providers Carrier Global has retained to perform Services on its behalf, subject always to Carrier Global having contractually restricted such service providers on processing the Personal Information on a basis consistent with the terms set out under this clause 11. Carrier relies on available legal mechanisms to enable the legal transfer of Personal Information across borders and will comply with Carrier Global's Binding Corporate Rules to authorise transfer. The Customer may view the full text of Carrier's privacy policy, which sets out how we collect and deal with your personal information at https://www.carrier.com, or on request from the local Carrier office. Please contact the local Carrier office for any questions in relation to privacy. 	17.1	All clerical errors are subject to corrections and shall not bind Carrier.
11.2	In this clause 11, personal information means information or an opinion relating to an identified or identifiable natural person.	17.2	The invalidity or unenforceability of any provision of these terms and conditions shall not affect the validity or enforceability of the remaining provisions.
12	<p>Liability</p>	17.3	Carrier's failure to enforce, at any time or any period of time, any term of any Contract incorporating these terms and conditions shall not constitute waiver of such term and shall in no way affect its right to enforce it.
12.1	To the extent permitted by law, the aggregate liability of Carrier in respect of the Agreement (including to the Customer), whether in contract, tort (including negligence) or otherwise, shall be limited to the value of the Services under the Agreement, save and except for any injury to, or death of a person.	17.4	Headings are included for ease of reference and do not form parts of or affect the interpretation of these terms and conditions.
12.2	Subject to clause 12.1, Carrier is not liable for any indirect or consequential injury, damage or loss whether arising in tort, contract or otherwise (even if due to the negligence of Carrier or any of its employees, contractors or agents) and whether arising out of or in connection with the supply of Services (including loss of anticipated savings or lost profit, loss of revenue, recalls, harm to business or business reputation, loss of contract, loss of goodwill or increased cost of workings (" Indirect or Consequential Loss or Damage ").	17.5	These terms and conditions bind Carrier, Customer and their respective successors and assigns.
13	<p>Termination & Recovery of Debt</p>		
13.1	<p>If the Customer does not make any payment by the due date, exceeds its credit limit at any time, commits any other material breach of these terms and conditions or is or becomes or is reasonably suspected by Carrier to be the subject of an insolvency event (a "Default Event"), then:</p> <ol style="list-style-type: none"> the Customer will be in default under these terms and conditions; the balance of the Customer's account with Carrier will become immediately due and payable; Carrier will become immediately entitled to enforce any security, charge or security interest granted to it pursuant to these terms and conditions; and Carrier may (without limiting any other right or claim it may have against the Customer) do any or all of the following: <ol style="list-style-type: none"> vary or withdraw any approved credit limit and/or terms of trade; cancel or suspend any unfilled orders or cease providing the Services; terminate any contracts between Carrier and the Customer and demand immediate payment of any monies due and outstanding under those contracts; cancel any rebate, discount or allowance due or payable by Carrier as at the date of the Default Event; and/or institute any recovery process as Carrier in its discretion decides at the Customer's cost and expense. 		
14	<p>Alteration to Terms and Conditions</p> <p>Carrier may amend or vary these terms and conditions at any time by written notice to the Customer's place of business or by posting an amended copy on Carrier's website and the Customer will be bound by any such amendments in respect of any orders subsequently made or accepted. The Customer may withdraw an order which has not been accepted by Carrier upon notification of such amendments.</p>		
15	<p>Governing Law</p>		
15.1	These terms and conditions and any contract including them shall be governed by the laws of the Territory.		