

# Lattix Systems AS - Conditions of sale

(Rev. 2010/03)

## A. DEFINITIONS

1. "The Seller" means Lattix Systems AS and shall include any subcontractor of the seller.
2. "The Customer" means the person, firm or company to whom this document is addressed.
3. "The Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller.
4. "The Goods" means the subject matter of the contract and the articles which the Customer agrees to buy from the Seller.
5. "The Price" means the price or prices payable for the Goods excluding carriage, packing, insurance and VAT.

## B. CONDITIONS OF SALE

1. These Conditions shall apply to all contracts for the sale of goods by the Seller to the Customer to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any purchase order, confirmation of order or similar document.
2. All orders for Goods shall be deemed to be an offer by the Customer to purchase goods pursuant to these Conditions.
3. Acceptance of the delivery of the Goods shall be deemed conclusive evidence of the Customer's acceptance of these Conditions.
4. Any variation to these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

## C. RETURN OF GOODS

1. Products ordered can be returned, but are subject to a 75% restocking charge. Buyer is responsible for the return of their products to Lattix Systems warehouse at its own expense. Non standard or custom orders, used or modified products cannot be returned for credit. Products can be returned by Buyer, only after this is agreed with Lattix Systems AS, which will provide the delivery address.

## D. THE PRICE AND PAYMENT

1. The prices of the Goods shall be the Seller's quoted price which may be increased at any time up to delivery to reflect any increase in the cost to the Seller which is due to factors after the making of the contract which are beyond the reasonable control of the Seller (including, without limitation, foreign exchange fluctuations, taxes and duties and the cost of labour materials and other manufacturing costs). The Price is exclusive of VAT which shall be due at the rate ruling on the date of VAT invoice.
2. Payment of the price and VAT shall be due within the days of credit agreed between the Seller and the Customer in writing following the date of the invoice and time for payment shall be of the essence.
3. Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 2 per cent per annum above the Base Rate of Barclays Bank PLC from time to time in force and shall accrue at such a rate after as well as before any judgement.

## E. THE GOODS

1. The Goods shall be supplied in accordance with the description contained in the Seller's specification or acknowledgement of order.
2. The Seller may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.
3. Photographs, drawings and other illustrations or descriptions contained in any catalogue, price list or brochure of the Seller shall not form part of this contract and no warranty is given the

Goods supplied will correspond exactly with those specified in such documents.

4. The Buyer shall take delivery of the Goods notwithstanding that the quantity delivered shall be either greater or less than the quantity purchased provided that such discrepancy in quantity shall not exceed 10 per cent and the Price shall be adjusted pro rata to the discrepancy.

## F. DELIVERY

1. Any time or date for delivery specified in the acknowledgement of order is an estimate only unless otherwise agreed between the Seller and the Customer in writing. The failure by the Seller for any cause whatsoever to meet the estimated delivery date shall not entitle the Customer to reject the Goods when they are delivered and the Seller shall not be liable to make good any damage or loss arising directly or indirectly out of such delay.
2. Where it is agreed in writing that the Seller shall deliver on a specified date or dates, the Customer shall nevertheless have no claim against the Seller for delay in delivery of, or failure to deliver, the Goods as a result or consequence of strikes, labour disputes or other industrial action, emergency conditions, inability to obtain or delay in obtaining materials, fire, flood or any circumstances not within the control of the Seller and in these circumstances the Seller may suspend delivery until resumption of work and extend the period of delivery to cover such time as is lost.
3. For the avoidance of doubt it is hereby declared that no sales person in the employ of the Seller shall have authority to commit the Seller to deliver on a specified date and the Seller shall only be bound by an obligation confirmed in writing and signed on behalf of the Seller by a director or manager.

## G. DAMAGE IN TRANSIT OR NON DELIVERY

1. No claim for damage in transit, shortage of delivery or loss of goods, will be entertained unless, in the case of damage in transit or shortage of delivery notice in writing is given to the Seller within 48 hours of receipt of the goods and in the case of loss of goods notice in writing is given to the seller within seven days of the date of the despatch (as stated on the invoice).
2. The Customer shall afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them.
3. If a claim referred to in 6.1 is accepted by the Seller the Customer's sole remedy shall be limited to the Seller the Goods.

## H. WARRANTIES AND LIABILITY

1. All warranties and conditions whether implied by statute or otherwise are excluded from this contract (save as stated in 2) and the Seller shall be under no liability (whether for any breach of contract or otherwise) for any direct loss and/or expense (including loss of profit) suffered by the Customer or liability to third parties incurred by the Customer.
2. Condition 1 shall not apply to conditions and warranties relating to the quality and/or fitness for the purpose of the Goods if, but only if, the following conditions are satisfied:
  - a. The Seller has been advised by the Customer that the Goods are required for a particular purpose or for use under specific conditions: and
  - b. The Seller has advised the Customer in writing that the Goods are fit or suitable for such purpose or conditions: and
  - c. The Customer shall prove that the Customer has relied on such advice from The Seller: and
  - d. The Customer shall prove that the Goods have been handled and installed strictly in accordance with the manufacturers' instructions, advice from the Seller and usual building industry practice and procedure; in which case the Seller's liability to the Customer (whether for any breach of contract or otherwise) shall not in any event exceed £50,000.00

## I. ACCEPTANCE

1. The Customer shall be deemed to have accepted the Goods 48 hours after delivery to the Customer and after acceptance the Customer shall not be entitled to reject the Goods which are not in accordance with the contract.

**J. RETENTION OF TITLE**

1. All the Goods supplied by the Seller to the Customer under the terms of this contract shall remain the sole and absolute property of the Seller both in law and in equity until the Customer shall have paid the Seller the Price together with the price of any other goods supplied by the Seller to the Customer pursuant to any other contract between them.
2. The Customer acknowledges that it is in possession of all the Goods supplied under the terms of this contract solely as bailee for the Seller until the Customer shall have paid the Seller the Price together with the full price of any other goods supplied by the Seller to the Customer pursuant to any other contract between the Seller and the Customer.
3. Until such time as in accordance with the above provisions the Customer becomes the owner of the Goods it will store them on its premises (at no cost to the Seller) separately from its own goods or those of any other person and in a manner which make them readily identifiable as the goods of the Seller.
4. The Customer's right to possession of the Goods shall cease if it does anything or fails to do anything which would entitle a receiver or an administrator to take possession of any of its assets or which would entitle any person to present a petition for winding-up the Customer and the Seller may thereupon enter upon any premises where the Goods are stored or where they are reasonably thought to be stored for the purpose of repossessing them.
5. Notwithstanding the retention of property in the Goods by the Seller in accordance with the above provisions all the Goods supplied by the Seller to the Customer under the terms of this contract shall be at risk of the Customer as soon as they are delivered by the Seller to the Customer's premises or otherwise to its order and the Customer shall insure and keep insured the Goods to the full price against "all risks" in the joint names of the Seller and the Customer.
6. Until such time as in accordance with the above provisions either the Customer shall have ceased to have the right to retain possession of the Goods or shall have acquired the property in them the Customer is licensed by the Seller to agree to sell the Goods on the Seller's behalf as agent save that the Customer shall not hold itself out as such but shall sell on its own account and shall hold the entire proceeds of sale as trustee for the Seller and shall pay them into a separate bank account opened for the purpose and approved by the Seller and shall ensure that in no such circumstances are the proceeds mingled with other money or paid into any overdrawn bank account but are at all times identifiable as the Seller's money.
7. If the Customer has not received the proceeds of any such sale it will if called upon to do so by the Seller assign to the Seller within seven days all rights against the person or persons by whom the proceeds are owed.
8. The Customer shall promptly deliver the prescribed particulars of this contract to the Registrar in accordance with the Companies Act 1985 PART XII (as amended) and without prejudice to the other rights of the Seller if the Customer fails to do so all sums whatsoever owing by the Customer to the Seller shall forthwith become due and payable.

**K. INSOLVENCY OF CUSTOMER**

1. If the Customer fails to make payment for the Goods in accordance with this contract or commits any other breach of contract or if any distress or execution shall be levied upon any of the Customer's Goods or if the Customer offers to make any arrangement with its creditors or if any petition in bankruptcy is presented against the Customer or if (being a limited company) any resolution or petition to wind-up the Customer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver administrator, administrative receiver or manager shall be appointed over the whole any part of the Customer's business or assets or if the Customer shall suffer any analogous proceedings under foreign law all

sums outstanding in respect of the Goods shall become payable immediately.

2. The Seller in its absolute discretion and without prejudice to any other rights which it may have may suspend all future deliveries of Goods to the Customer and/or terminate the contract without liability upon its part and/or exercise any of its rights pursuant to clause 1.

**L. MISCELLANEOUS**

1. Contracts and orders are accepted subject to the Seller receiving any necessary licence to purchase or to use the required raw materials and to the Seller being able to obtain raw materials.
2. All Goods sold in retail packaging may be re-sold by the Customer only in the packaging supplied by the Seller and in no case may any trade mark other than those applied by the Seller be marked on or applied in relation to the Goods.
3. No right or licence is granted under this contract to the Customer under any patent, trade mark, copyright, registered design or other intellectual property right except the right to use or re-sell the Goods.
4. Any provision of this contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this contract.
5. The Customer undertakes for the purpose of the Health and Safety at Work Etc Act 1974 that it will take all necessary steps to ensure, insofar as is reasonably practicable, that the Goods will be used in a manner which is safe and without risk to health.

**M. ARBITRATION AND CHOICE OF LAW**

1. This contract is subject to the Laws in Norway.
2. If any dispute or difference shall arise between the parties as to the meaning of this contract or any matter or thing arising out of this contract then it shall be referred to the determination of an arbitrator to be appointed by agreement of the parties or (in default of agreement within twenty-one days of the service upon one party of a written request to concur in such appointment) by the head for the time being of the Chartered Institute of Arbitrators.

**N. PRICES and shipping**

1. Prices are exclusive of Value Added Tax and are subject to change without notice.
2. All deliveries are EXW, Ex Works Rømskog (near Oslo), Norway, unless otherwise specifically agreed.

**O. TECHNICAL SPECIFICATION**

3. Our policy is one of continuous development, therefore we reserve the right to modify our products without prior notification.

**Lattix Systems AS, 2009/09**

Lattix Systems AS  
PoBox 130, N-1309 Rud, Norway

WEB: [www.lattix.net](http://www.lattix.net)  
Mail: [systems@lattix.net](mailto:systems@lattix.net)  
Fax: +47 6717 8571

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