

**MONUMENT TOOLS LIMITED TERMS AND CONDITIONS FOR THE FOR THE PURCHASE OF PRODUCTS AND SERVICES.  
LAST UPDATED JULY 2007 © MONUMENT TOOLS LTD 2007**

**1. Introduction**

- 1.1 We are Monument Tools Limited, a company registered in England and Wales under number 281817.  
1.2 These are the terms and conditions upon which we do business. Please read them carefully – in certain places they restrict your legal rights – and please contact us if you want to clarify or discuss any of these terms and conditions.  
1.3 We may revise or update these terms and conditions at any time without notice. The current version of these terms and conditions can be found on our web site at [www.monument-tools.com/dlc.htm](http://www.monument-tools.com/dlc.htm).

**2. Dealings between you and us**

- 2.1 These are the terms and conditions (as revised or updated from time to time in accordance with clause 1.3) upon which we are willing to buy products and services from you and they will apply to all dealings between you and us to the exclusion of all other terms and conditions which you may purport to apply under any quotation, offer, confirmation of order or similar document.  
2.2 We may buy from you three types of products: the standard products you offer for sale ("standard products"); your standard products but marked with our branding ("branded products"); and other products made to our specification ("bespoke products"). These terms and conditions apply to our purchase of all three types of products.  
2.3 No variation to these terms and conditions will be binding unless one of our directors writes to you confirming the variation.

**3. Purchase orders and acceptance**

- 3.1 We will make an offer to buy products or services from you by submitting a valid purchase order to you. A purchase order for products will, as a minimum, specify the type and number of products we wish to buy and the price we are willing to pay for the products. A purchase order for services will, as a minimum, specify the services we wish to buy and the price we are willing to pay for the services. Only our directors and a few of our employees are authorised to submit purchase orders on our behalf and a purchase order will only be valid if it is submitted by one of our authorised persons. If you are in any doubt as to whether a purchase order is valid you should contact one of our directors for written confirmation that you may proceed with the purchase order. We will not be deemed to have made a valid offer to you unless it is made in accordance with the provisions of this clause and we will not be obliged to accept any products or services that you provide to us under an invalid offer.  
3.2 All offers we make about the purchase of products or services from you are subject to these terms and conditions.  
3.3 You must notify us of your unconditional acceptance or rejection of our offer within two days of the date we make the offer. If you try to accept our offer on terms that are different to our original offer – for example a different price – then you will be deemed to have rejected our original offer. If we do not receive your acceptance or rejection of our offer within two days of the date we make the offer then you will be deemed to have unconditionally accepted our offer. It is at the moment you accept, or are deemed to have accepted, our offer that a contract of sale is made between you and us for the supply by you to us of the products and services specified in our order ("contract of sale"). Each contract of sale is subject to these terms and conditions to the exclusion of all other terms and conditions (including any terms and conditions which you may purport to apply under any quotation, offer, confirmation of order or similar document).  
3.4 If you reject, or are deemed to have rejected, our original offer, but you still deliver the products and/or perform the services we ordered then we may at our discretion accept the products and/or services, and our original offer and these terms and conditions will be deemed to apply to such supply and performance.  
3.5 We may amend any contract of sale by giving you notice of the amendment.  
3.6 We may cancel a contract of sale in respect of all or part of any of the products and/or services by giving you notice of the cancellation at any time before delivery of the products and/or performance of the services, in which case we will not be liable to pay you for the cancelled products and services.

**4. Price**

- 4.1 If one of our directors has agreed with you a standard price that will apply to all our purchases of a product or service then the price for the product and service shall be the agreed standard price. In all other circumstances the price for the products and services we order will be the price stated in our purchase order.  
4.2 The prices for products and services set out in clause 4.1 will apply irrespective of any prices that you may include on any quotation, offer, confirmation of order or similar document.  
4.3 All prices are:  
4.3.1 exclusive of any applicable value added tax (which will be payable by us subject to us receiving a valid value added tax invoice from you); and  
4.3.2 inclusive of all charges for packaging, packing, insurance and delivery of the products and any duties, taxes or levies other than value added tax.  
4.4 Details of the price we pay you for products and services shall be treated by you as information of a confidential nature.

**5. Tooling and drawings**

You may have to create or purchase additional tooling to enable you to supply us with products. Unless agreed otherwise in writing by one of our directors, you will be responsible for buying all tooling, but we will own the tooling you buy to enable you to supply us with branded products or bespoke products.

**6. Our materials**

- 6.1 We may supply you with materials, such as design drawings, product information and technical specifications, tooling and patterns, and trade marks, designs, logos and get up ("materials") in connection with the design and manufacture of branded products and bespoke products.  
6.2 All materials are and will remain at all times our property and you must return all materials to us on demand. You may use materials only for the purpose of designing, manufacturing and selling to us branded products or bespoke products and you must maintain the materials in good order and condition and make good any loss or damage to the materials. You must not dispose of any tooling without the prior written consent of one of our directors.



## 7. Quality control

- 7.1 You must comply with all applicable legal requirements concerning the manufacture, packaging, packing, delivery and sale of the products.  
7.2 You may not refuse any request from us to monitor the services or inspect and test the products during manufacture or storage prior to despatch, and you will provide us with all co-operation reasonably required for such activities.  
7.3 You must maintain all appropriate records about the manufacture and testing of products in accordance with good industry practice and make such records available to us on request.

## 8. Your obligations

- 8.1 You must ensure that each product you supply to us:  
8.1.1 is of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended); fit for any purpose held out by you or made known to you by us prior to or at the time the contract of sale is made; and free from defects in design, material and workmanship, for a period of at least one year from the date of first use;  
8.1.2 is new and, where appropriate, carries the "CE" marking;  
8.1.3 that includes any timber complies with the Forest Stewardship Council's standards for products made with timber;  
8.1.4 corresponds with our purchase order and any relevant samples or specifications; and  
8.1.5 is suitable for sale, hire, lease and use, and complies with all applicable legislation relating to the sale, hire, lease and use of such products.  
8.2 You must:  
8.2.1 use appropriately qualified and trained personnel to perform the services; and  
8.2.2 perform the services in accordance with all applicable legal requirements and with the skill and care to be expected of a competent provider of such services.  
8.3 You shall ensure that:  
8.3.1 you have the legal right to sell the products to us; and  
8.3.2 neither the products nor services you supply to us, nor any person's use of the same, infringes any third party right.

## 9. Delivery

- 9.1 You must deliver products during our usual business hours to the delivery address and on the date specified in the purchase order. If no delivery address is specified in the order then you must contact us to find out where the products are to be delivered to. If no delivery date is specified in the order then you must deliver the products within twenty-one days of the date when the order is placed.  
9.2 You must perform services within the period stated on the purchase order. Where the services are to be performed at our premises then you will carry them out during our usual business hours. If the order does not specify a date by when the services are to be completed then you must complete them within a reasonable time of the date when the order is placed.  
9.3 The time of delivery of the products and performance of the services is of the essence.  
9.4 A delivery note quoting the number of the purchase order must accompany each delivery of products.  
9.5 You must provide us in good time with any instructions or other information required to enable us to accept delivery of the products and performance of the services.  
9.6 You must provide us with all relevant product material safety data sheets and safety data (including, but not limited to, safety data concerning safe working loads and any personal protective equipment to be worn) for the product being delivered either on or prior to delivery of the product.  
9.7 If products are to be delivered or services provided in instalments then the relevant contract of sale will be treated as a single contract and will not be severable. If our purchase order includes specific details about how products are to be delivered (for example "x" number of products to be delivered on each pallet or in each bin) then you must ensure that your delivery complies with those details. If it does not then we may charge you for additional work we have to carry out to rectify the error.  
9.8 We will not be deemed to have accepted any products or services until we have had a reasonable amount of time to inspect them following delivery or performance or, if later, within a reasonable time after we become aware of any latent defect in the products or services.  
9.9 If any products and/or services are not supplied or performed in accordance with the terms of the relevant contract of sale then we may, in addition to our other rights:  
9.9.1 require you to repair the products or to supply replacement products or services in accordance with the contract of sale; or  
9.9.2 terminate the contract of sale in accordance with clause 19.1.4 and require the repayment of any part of the price that we have paid you for the products and services.  
9.10 If any part of the products are not delivered or the services are not fully performed on or within the time specified by the relevant contract of sale then we may deduct from the total price payable for the products and/or services, or if we have already paid the price claim from you by way of liquidated damages for delay, 10% of the price for each week of delay, up to a maximum of 50%.

## 10. Risk and title

- 10.1 Risk of loss of or damage to the products will pass to us upon delivery in accordance with the relevant contract of sale.  
10.2 Title to the products will pass to us upon delivery unless payment for the products is made prior to delivery, in which case title to the products will pass to us at the time payment is made.

## 11. Payment

- 11.1 Unless otherwise stated in the purchase order: you may invoice us for the products we order at any time after delivery of the products; you may invoice us for the services we order at anytime after completion of the services; we will pay all undisputed sums set out in an invoice within 60 days of receiving it; and we will make payment in pounds sterling.  
11.2 Each invoice must quote the number of the relevant purchase order.  
11.3 We may withhold payment of any disputed sums and we may deduct from any monies we owe you any monies you owe us.

## 12. Indemnity

- 12.1 You shall indemnify us against all costs, damages, losses and expenses we incur in connection with:  
12.1.1 your breach of these terms and conditions or any contract of sale;



- 12.1.2 any claim or allegation that any product you supply to us infringes, or its importation, use, resale or disposal infringes, any third party right; or
- 12.1.3 any claim or allegation that any services you provide to us infringe, or their provision or use infringes, any third party right; or
- 12.1.4 any claim or allegation that any product you supply to us does not comply with applicable product safety legislation (including the Consumer Protection Act 1987).
- 12.2 If any claim is made or threatened for infringement or alleged infringement of any intellectual property right which may affect the use, resale or disposal of any of the products, then you must promptly notify us of this fact and, upon our request, provide us with full details of the claim.
- 12.3 You must, at our request and at your cost, provide us with all reasonable assistance for the purpose of contesting any claim made against us to which clause 12.1 may apply.
- 12.4 If you are located in the United Kingdom then you shall be responsible for financing the costs of collection, treatment, recovery and environmentally sound disposal of all waste electrical and electronic equipment from users arising from any standard products that you sell to us in accordance with your obligations as a "producer" of those products under the Waste Electrical and Electronic Equipment Regulations 2006 ("regulations"). You shall indemnify us against all costs, damages, losses and expenses we incur as a result of your failure to comply with your obligations under the regulations and/or this clause.

### 13. Insurance

- 13.1 You shall maintain, and you shall ensure that your sub-contractors maintain, adequate public liability, professional indemnity and product liability insurance cover with a reputable insurer to cover your potential liability to us under these terms and conditions and each contract of sale and provide us with copies of the relevant insurance policies upon our request.
- 13.2 Prior to providing us with any products or services you shall carry out, and you shall ensure that your sub-contractors carry out, appropriate risk assessments in connection with such provision and document the assessments undertaken and the results. At our request you shall provide us with copies of the risk assessments undertaken and the results.

### 14. Intellectual property

- 14.1 We will own all intellectual property rights (including all rights in designs and drawings) that are created during the design, manufacture and supply to us of branded products or bespoke products. You will, at our cost, provide us with all the assistance we request (including signing documentation) to fully and effectively vest in us the rights referred to in this clause and in order for us to apply for, and obtain, registrations in respect of those rights.
- 14.2 If you decide to manufacture or supply or ask someone else to manufacture or supply any products that are the same or similar to any of the branded products or bespoke products, then you must ensure that those products do not infringe our intellectual property rights and do not use any of our trade marks, logos or get up or any trade mark, logo or get up that so resembles any of our trade marks, logos or get up as to be likely to cause confusion.
- 14.3 You shall indemnify us against all costs, damages, losses and expenses we incur as a result of your failure to comply with your obligations under clause 14.2.

### 15. Ethical trading

- 15.1 We are committed to trading relationships with our suppliers that are ethical as well as commercially viable, which means we only contract with suppliers who meet our ethical standards. In particular, you must conduct your business to meet the following environmental and labour standards and supply us with evidence of your compliance upon request.

#### Environmental Standards

- 15.2 You must:
- 15.2.1 ensure that your business complies with all applicable environmental legislation, environmental regulatory controls and Forest Stewardship Council policies and standards;
- 15.2.2 ensure that you conduct your business in a way that minimises waste, maximises use of resources and prevents excessive pollution; and
- 15.2.3 communicate these standards to all your employees, agents and sub-contractors.

#### Labour Standards

- 15.3 You must ensure that:
- 15.3.1 working conditions for all your staff are safe and hygienic and in accordance with all applicable laws;
- 15.3.2 child labour is not used in your business under any circumstances;
- 15.3.3 all employment with you is freely chosen;
- 15.3.4 all wages and benefits paid or provided to your staff meet or exceed the applicable minimum legal limits;
- 15.3.5 your staff do not work longer hours than they are allowed to by applicable law;
- 15.3.6 no discrimination is practised against your staff; and
- 15.3.7 the human and civil rights of all your staff are respected.

### 16. Confidentiality

- 16.1 The details of these terms and conditions, each order we submit to you and each contract of sale, together with all other information or material of a confidential nature we supply or make available to you in connection with any contract of sale, are strictly confidential. You:
- 16.1.1 may use such information only for the purpose of carrying out your obligations under these terms and conditions or any contract of sale;
- 16.1.2 must not disclose such information to any third party and shall use all reasonable efforts to prevent any such disclosure except as permitted under clause 16.1.3; and
- 16.1.3 may disclose such information to your employees, agents and sub-contractors who need to know the same for the purpose of carrying out your obligations under these terms and conditions or any contract of sale provided that before you make any disclosure you make the relevant employee, agent or sub-contractor aware of your confidentiality obligations and you ensure that it complies with those obligations.



- 16.2 You must treat any information or material that we supply or make available to you as confidential unless you are certain that such information or material is public knowledge.
- 16.3 No media releases, public announcements or public disclosures by you, your employees, agents or sub-contractors relating to these terms and conditions or any contract of sale may be made without our prior written approval. If a third party asks you whether you supply us with products or services then you should refuse to answer the question and promptly refer the matter to us.
- 17. Data protection**  
In relation to any personal information that we provide or make available to you, you must:
- 17.1 process the information only in accordance with our lawful instructions;
- 17.2 take appropriate technical and organisational measures against unauthorised or unlawful processing of the information and against accidental loss or destruction of or damage to the information; and
- 17.3 on our request allow us to audit your compliance with this clause.
- 18. Assignment**  
18.1 You must not assign or dispose of any of your rights or obligations under these terms and conditions or any contract of sale without our prior written consent.
- 18.2 You will in all cases act as principal in respect of each contract of sale and you are responsible and liable to us for the acts and omissions of your employees, agents and sub-contractors. An obligation on you to do, or to refrain from doing, any act or thing shall include an obligation upon you to procure that your employees, staff, agents and your sub-contractors employees, staff and agents also do, or refrain from doing, such act or thing.
- 19. Termination**  
19.1 We may terminate any contract of sale without liability on our part by giving notice to you on or at any time after the occurrence of any of the following events:
- 19.1.1 you make any arrangement or composition with your creditors; you commit an act of bankruptcy; a receiving order is made against you; insolvency or winding-up proceedings are instituted by or against you; a receiver, liquidator or administrator is appointed for you; any of your assets is the object of attachment, sequestration or other type of comparable proceeding; you are unable or admit in writing your inability to pay your debts as they fall due; you cease or threaten to cease to carry on business; or you suffer or take any similar or analogous action in any jurisdiction in consequence of debt;
- 19.1.2 there is a change of control, as defined in Section 416 of the Income and Corporation Taxes Act 1988, in you;
- 19.1.3 we reasonably believe that any of the events mentioned in clause 19.1.1 or 19.1.2 is about to occur; or
- 19.1.4 you commit any breach of the contract of sale.
- 19.2 On termination of a contract of sale:
- 19.2.1 you will, if required by us, fulfil any part of the contract of sale that is unfulfilled at the date of termination;
- 19.2.2 you must return to us all property belonging to us then in your possession, including all materials supplied or made available by us in connection with the contract of sale; and
- 19.2.3 clauses 2.1, 3.3, 4, 5, 6.2, 7.3, 9.9, 9.10, 10, 11, 12, 13, 14, 16, 18.2, 19.2 and 20 of these terms and conditions will survive the termination of the contract of sale, as will any other clause which by its nature is intended to survive termination.
- 20. General**  
20.1 No third party shall have any rights under or in connection with these terms and conditions or any contract of sale by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 20.2 If at any time any provision of these terms and conditions is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of these terms and conditions, or the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of these terms and conditions.
- 20.3 No delay or failure by us in exercising or enforcing any right or remedy under these terms and conditions or any contract of sale will be deemed to be a waiver of any such right or remedy, nor will that failure operate to bar the exercise or enforcement of such right or remedy at any future time.
- 20.4 These terms and conditions and each contract of sale are governed by and will be construed in accordance with English law and, except as set out in clause 20.5, you and us hereby submit to the exclusive jurisdiction of the English courts in respect of the same.
- 20.5 If you breach these terms and conditions or any contract of sale then you acknowledge and agree that we may bring a claim against you for the breach in any jurisdiction in which you or your assets are located.

