

Policy SGP-006 · Revision 02 · 03/11/2021 · Governed by the laws of England and Wales

THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO CLAUSE 9 — LIMITATION OF LIABILITY

These Terms govern the supply of services by Stuga Machinery Limited (company registration number 05744259) of Edison Way, Great Yarmouth, NR31 0NG.

1 — Definitions

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| 1.1 | The Company | Stuga Machinery Limited (company registration number 05744259) of Edison Way, Great Yarmouth, NR31 0NG. |
| 1.2 | The Customer | The person, firm or company who agrees to enter into a Contract with the Company. |
| 1.3 | Equipment and Services | The equipment and services detailed in the Contract. |
| 1.4 | Intellectual Property Rights | Patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, whether registered or unregistered, in any part of the world. |
| 1.5 | Particulars | The particulars and information supplied to the Company by the Customer in connection with the Specification and the Provision. |
| 1.6 | Price | The price shown in a Contract for the Provision with the addition of any sums payable as provided hereunder. |
| 1.7 | Provision | The provision of Services or the supply of the Equipment. |
| 1.8 | Contract | A binding written agreement between the Company and the Customer for the Provision in accordance with these Terms. |
| 1.9 | Specification | A written statement outlining the objectives of the project. |

2 — Contract and Acceptance

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| 2.1 | Offer | The Contract constitutes an offer by the Company to the Customer for the Provision in accordance with these Terms. |
| 2.2 | Acceptance | Unless the Company agrees to the contrary in writing, no Contract shall be binding on the Company unless and until accepted by the Customer within the period and in the manner set out in the Contract. |
| 2.3 | Exclusion of Other Terms | These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. |

3 — Complete Agreement

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| 3.1 | Entire Agreement | These Terms together with the Contract (and any Specification set out in it) shall represent the complete agreement of the Company and the Customer. |
| 3.2 | Variations | No change may be made to these Terms or any Contract except with the written consent of the Company. |

4 — Specifications

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| 4.1 | Customer Responsibility | In preparing and submitting the Contract, the Company relies upon the Customer supplying all necessary, relevant and accurate Particulars. Any errors or omissions in the Particulars supplied resulting in any loss or damage to the Customer shall be the Customer's sole responsibility. |
| 4.2 | Intellectual Property Warranty | The Customer warrants that no Provision based upon the Particulars shall infringe the Intellectual Property Rights of any third party, or contravene the provisions of any statute, statutory instrument or regulation. |
| 4.3 | Customer Indemnity | The Customer shall indemnify the Company from and against all losses, actions, claims, liabilities, costs and expenses incurred by the Company as a result of any breach of the warranty referred to in clause 4.2. |
| 4.4 | Right to Amend Specification | The Company reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Provision. The Company shall notify the Customer of any such amendment. |

5 — Prices

5.1	Price Variation	The Company may by written notice vary the Price if: (a) any alteration in the Provision is made with the agreement of or at the request of the Customer; or (b) there is any suspension of or hindrance to the Provision as a result of the Customer's instructions or failure to provide the same.
5.2	No Set-Off	The Customer shall not be entitled to make any deduction from the Price in respect of any alleged right of set-off or counter-claim.
5.3	VAT and Taxes	Unless the Contract states to the contrary, the price shown in the Contract is exclusive of Value Added Tax and all applicable taxes, duties, tariffs and charges of any nature whatsoever.
5.4	Exclusions from Price	The Price is for the services as stated in the Contract. It does not include any major upgrades and/or repairs that may become necessary or advisable — such as Hepco Ring Rebuild/Replacement, Profile Upgrade/Change, or Nextmove Card Replacement — which will be quoted and charged separately. The Price does not include cover or costs incurred as a result of theft, fire, flood or wilful damage.
5.5	Call-Out Labour	Unless otherwise stated, the price includes the labour content for call-outs. However, the Company reserves the right to charge an additional fee for call-outs arising from Customer negligence, failure to comply with the maintenance procedures supplied by the Company, failure to maintain an internet connection to the machine, or if the number of call-outs becomes excessive.

6 — Payment Terms

6.1	Payment in Advance	The Price for the Provision shall be paid by the Customer to the Company in advance. The Customer shall pay each invoice in full within 30 days of the invoice date (or before the Provision is supplied, whichever is sooner), or in accordance with any credit terms agreed by the Company and confirmed in writing. The Customer shall pay in full and in cleared funds to a bank account nominated in writing by the Company.
6.2	Time of the Essence; Interest	Time for payment of the Price shall be of the essence of the Contract. The Company shall be entitled to charge interest on overdue amounts at the rate of 8 percent per annum from the date when payment becomes due until the overdue amounts are paid.
6.3	Suspension of Provision	The Company reserves the right to suspend further Provision and/or to cancel any allowance of further credit in the event of any payments not being made when due, or if the Company in its sole discretion considers the financial condition of the Customer has ceased to justify any such terms being permitted.
6.4	No Deductions	All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
6.5	Early Termination by Customer	In the event that, due to a decision on the part of the Customer, the Provision is terminated prior to its completion, payment for work already completed at that time shall be calculated at the Company's published daily rate in force at that time.

7 — Time for Performance and Rights to Notice

7.1	Performance Dates are Estimates	Any periods or dates stated in the Contract for the performance of Services are the Company's best estimates and are not contractual statements. Should the Company's estimates prove inaccurate, it shall use its reasonable endeavours to notify the Customer of the rescheduled period or dates as soon as reasonably practicable.
7.2	Service Visit Numbers	The number of service visits is an estimate only and reasonable endeavours shall be made to maintain that number. If visits are not undertaken due to the Customer cancelling them, the contract will cease at its renewal date and shall not be dependent on the number of service visits completed.
7.3	Specific Timescales	Where a specific timescale is stated within a Contract, that date is the date on which it is deemed that, if no progress is being made with the Provision of the Services, all reasonable steps have been taken to carry out the Services.

8 — Acceptance of Statutory Liability

8.1	Liability That Cannot Be Limited	Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; and (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
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9 — Limitation of Liability

- 9.1 Subject to Clause 8** This clause is subject to clause 8.
- 9.2 Scope of Liability** References to liability in this clause include every kind of liability arising under or in connection with the Contract, including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.3 Payment Obligations Unaffected** Nothing in this clause shall limit the Customer's payment obligations under the Contract.
- 9.4 Wholly Excluded Loss Types** The following types of loss are wholly excluded:
- Loss of profits
 - Loss of sales or business
 - Loss of agreements or contracts
 - Loss of anticipated savings
 - Loss of use or corruption of software, data or information
 - Loss of or damage to goodwill
 - Indirect or consequential loss
- 9.5 Cap on Liability** The Company's total liability to the Customer shall not exceed the Price.
- 9.6 Reasonableness** The Company and the Customer agree that the limitations and exclusions of liability contained herein are reasonable. In this connection the Customer's attention is drawn particularly to clause 10.

10 — Insurance

- 10.1 Customer to Arrange Insurance** The Price has been calculated and agreed on the basis that the Company limits its liability. The Company recommends that the Customer arranges such insurance cover as the Customer may require in relation to the Provision and matters related thereto, including without limitation cover for: (a) damage to premises or other physical property of any kind; and (b) economic and other consequential or indirect loss or damage.

11 — Indemnity: Third Party Claims

- 11** The Customer agrees to indemnify the Company against any loss, damage, costs, claims or expenses incurred by the Company in respect of any liability established against the Customer by a third party arising out of or in connection with the Provision and due to the Customer's default or negligence.

12 — Force Majeure

- 12** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control.

13 — Confidential Information

- 13** Unless the Company and the Customer agree to the contrary in writing, each shall treat all procedures, instructions, diagrams, documents and other information of any kind whatsoever supplied to it by the other as strictly confidential, except to the extent that any such information is available in the public domain, or becomes so otherwise than due to a breach hereof, or is already known to the receiving party prior to such supply.

14 — Intellectual Property Rights

- 14.1 No Licence or Assignment** Unless the Company agrees to the contrary in writing, no licence or assignment of any Intellectual Property Rights vested in the Company shall be created in favour of the Customer by the Contract.
- 14.2 Third Party IP** The Company shall have no liability for any damages, costs, charges or expenses awarded against or incurred by the Customer arising out of any infringement or alleged infringement of any Intellectual Property Rights vested in a third party.
- 14.3 Software IP** All Intellectual Property Rights in any software licensed to the Customer remain vested in the Company and must not be altered by the Customer in any way.

15 — Assignment

- 15** The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Company.

16 — Waiver

- 16** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy.

17 — English Law and Jurisdiction

- 17.1 Governing Law** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 17.2 Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

18 — Severance

18 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision is deleted under this clause 18, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

19 — Termination

- 19.1 Notice** Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party one calendar month's written notice.
- 19.2 Outstanding Amounts on Termination** On termination of the Contract the Customer shall immediately pay to the Company all outstanding unpaid invoices and interest. In respect of the Provision supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 19.3 Accrued Rights** Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry.
- 19.4 Survival of Provisions** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry shall remain in full force and effect.

20 — Legal Compliance

20 In performing its obligations under the Contract, each party shall comply with all applicable laws, statutes and regulations from time to time in force.