

## CONDITIONS OF SALE

### 1. INTERPRETATION

1.1 In these Conditions:

**"Buyer"** means the person or organisation whose order for the Goods is accepted by Euro Towers.

**"Conditions"** means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and Euro Towers.

**"Contract"** means the contract for the purchase and sale of the Goods.

**"Goods"** means any of aluminium towers and components which Euro Towers is to supply in accordance with these Conditions.

**"Euro Towers"** means Euro Towers Limited.

**"Writing"** includes facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 References to persons shall include bodies corporate, firms or unincorporated associations.

### 2. BASIS OF THE SALE

2.1.1 Euro Towers shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of Euro Towers which is accepted by the Buyer, or any written order of the Buyer which is accepted by Euro Towers, subject in either case to these Conditions, which shall govern the Contract.

2.1.2 These Conditions shall govern the Contract to the exclusion of any other terms and conditions, and in particular any terms and conditions on which a quotation is accepted or purported to be accepted, or on which any order is made or purported to be made, by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing by a director of Euro Towers.

2.3 Euro Towers' employees or agents are not authorised to make any representations concerning the Goods unless also set out in technical information and/or the existing instruction manual relating to the Goods. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so set out.

2.4 Any illustrations, weights, measures, capacities, descriptions or specifications contained in Euro Towers' catalogues, price lists or other advertising material are intended merely to present a general picture of the Goods and will not form a representation or be part of the Contract unless otherwise agreed in Writing by Euro Towers.

2.5 Any samples supplied to the Buyer shall be accepted by the Buyer as supplied solely for information and as in no way importing any express or implied conditions or warranties as to quality, description, fitness for purpose or satisfactory quality of Goods subsequently delivered.

### 3. ORDER AND SPECIFICATIONS

3.1 Orders should be directed to Euro Towers' sales department at Unit 6, Edgemoor Close, Round Spinney, Northampton, NN3 8RG.

3.2 No order submitted by the Buyer shall be deemed to be accepted by Euro Towers unless and until acknowledged in Writing by Euro Towers. Where Euro Towers has not acknowledged the Buyer's order in Writing, these Conditions will apply to the Contract provided that the Buyer has had prior notice of them.

3.3 The Buyer shall be responsible to Euro Towers for ensuring the accuracy of the terms of any order (including any applicable specification instruction or design) submitted by the Buyer, and for giving Euro Towers any necessary information relating to the Goods within a sufficient time to enable Euro Towers to perform the Contract in accordance with its terms.

3.4 The quantity, quality and description of and any specification for the Goods shall be those set out in Euro Towers order acknowledgement form.

3.5 Euro Towers reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements which do not materially affect their quality or performance.

### 4. PRICE OF THE GOODS

4.1 The price of the Goods shall be the price confirmed by Euro Towers on its order acknowledgement form.

4.2 Except as otherwise stated by Euro Towers' order acknowledgement form or unless otherwise agreed in Writing between the Buyer and Euro Towers, all prices given by Euro Towers include delivery to the premises of the Buyer stated in Euro Towers order acknowledgement form.

4.3 The price of the Goods is exclusive of any applicable value added tax or other sales tax, which the Buyer shall be additionally liable to pay to Euro Towers.

### 5. TERMS OF PAYMENT

5.1 Subject to any special terms agreed in Writing between the Buyer and Euro Towers, Euro Towers shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event Euro Towers shall be entitled to invoice the Buyer for the price at any time after Euro Towers has notified the Buyer that the Goods are ready for collection or (as the case may be) Euro Towers has tendered delivery of the Goods.

5.2 The Buyer shall pay the price of the Goods without any deduction, and in particular, the Buyer shall not be entitled to any set off in respect of any claim or dispute with Euro Towers) prior to the end of the month next following delivery of the Goods or (as the case may be) Euro Towers tendering delivery of the Goods or (as the case may be) Euro Towers notifying the Buyer that the Goods are ready for delivery. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Euro Towers, Euro Towers shall be entitled to:

5.3.1 cancel the contract or suspend any further deliveries to the Buyer;

5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and Euro Towers) as Euro Towers may think fit (notwithstanding any purported appropriation by the Buyer); and

5.3.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above Lloyds Bank Plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

### 6. DELIVERY

6.1 Delivery of the Goods shall be made by Euro Towers to the premises of the Buyer stated by Euro Towers on Euro Towers order acknowledgement form.

6.2 Any dates quoted for delivery of the Goods are approximate only and Euro Towers shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall be of the essence unless previously agreed by Euro Towers in Writing. The Goods may be delivered by Euro Towers in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Euro Towers reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by Euro Towers to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract a whole as repudiated.

6.4 If Euro Towers fail to deliver the Goods for any reason other than any cause beyond Euro Towers' reasonable control or the Buyer's fault, and Euro Towers is accordingly liable to the Buyer, Euro Towers' liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

### 7. RISK AND PROPERTY

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery and off-loading by Euro Towers or, if the Buyer wrongfully fails to take delivery of the Goods, the time when Euro Towers has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until Euro Towers has received in cash or cleared funds payment in full:

7.2.1 of the price of the Goods; and

7.2.2 of the price of all other goods agreed to be sold by Euro Towers to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as Euro Towers' fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identifiable as Euro Towers' property.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and

have not been resold), Euro Towers shall be entitled at any time to require the Buyer to deliver up the goods to Euro Towers and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5 Where the Buyer has made one or more part payments in respect of debts due to Euro Towers and has not specified which payments relate to what contract, it shall be presumed that the payments relate to earlier contracts upon which settlement has not been fully made.

### 8. WARRANTIES AND LIABILITY

8.1 Subject to the conditions set out below Euro Towers warrants ("the Warranty") that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a reasonable period.

8.2 The Warranty is given by Euro Towers subject to the following conditions:

8.2.1 Euro Towers shall be under no liability in respect of any defect in the Goods arising from and drawing, design or specification supplied by the buyer;

8.2.2 Euro Towers shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Euro Towers' instructions (whether oral or in writing) or the erection instruction manual relating to the Goods misuse or alteration or repair of the Goods without Euro Towers approval.

8.2.3 Euro Towers shall be under no liability under the Warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

8.2.4 The Warranty does not extend to parts, materials or equipment not manufactured by Euro Towers, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer.

8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.4 The Buyer will carefully examine the Goods on receipt and notify Euro Towers and the carrier immediately of any apparent damage, defect, loss or shortage. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to Euro Towers within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection within a reasonable time after discovery of the defect or failure. Euro Towers shall not be liable for any damage, defect or shortage which could have been ascertained by reasonable testing, examination or inspection within 7 working days of the date of delivery. If delivery is not refused, and the Buyer does not notify Euro Towers accordingly, the Buyer shall not be entitled to reject the Goods and Euro Towers shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

8.5 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to Euro Towers in accordance with these Conditions, Euro Towers shall be entitled to replace or at Euro Towers' option, repair the Goods (or the part in question) free of charge or, at Euro Towers' sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but Euro Towers will have no liability for any consequential loss arising out of any defect or failure to meet specification.

8.6 Except in respect of death or personal injury caused by Euro Towers' negligence, Euro Towers shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other terms or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of Euro Towers, its employees or agents or otherwise) which arise out of or in connection with the supply of the goods or their use or resale by the Buyer, except as expressly provided in these Conditions.

8.7 Euro Towers shall not be liable for the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Euro Towers' obligations in relation to the Goods, if the delay or failure was due to any cause beyond Euro Towers' reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond Euro Towers' reasonable control.

8.7.1 Act of God, explosion, flood, tempest, fire or accident

8.7.2 war or threat, sabotage, insurrection, civil disturbance or requisition;

8.7.3 acts, restriction, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

8.7.4 import or export regulations or embargoes;

8.7.5 strikes, lock-outs or other industrial actions, or trade disputes (whether involving employees of Euro Towers or of a third party);

8.7.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

8.7.7 power failure or breakdown in machinery.

### 9. INSOLVENCY OF BUYER

9.1 This Condition applies if:

9.1.1 the Buyer (being an individual, firm or company) makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

9.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

9.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

9.1.4 the Buyer suffers distress or execution against its property; or

9.1.5 the Buyer carries out or suffers any analogous act or event under any other jurisdiction; or

9.1.6 Euro Towers reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

9.2 If this Condition applies then, without prejudice to any other right or remedy available to Euro Towers, Euro Towers shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary. Euro Towers shall also have the right as set out under Condition 7. 4 of these Conditions.

9.3 Euro Towers reserves the right to make enquiries regarding credit status prior to making facilities available, or at any other time it considers necessary. Euro Towers also reserves the right to limit the amount of credit to be made available.

### 10. INTELLECTUAL PROPERTY RIGHTS AND DOCUMENTATION

10.1 All catalogues, manuals, specification, models, drawings, technical information or other data, material or documentation of any kind furnished by or on behalf of Euro Towers to the Buyer and all intellectual property rights therein shall vest in and/or remain the property of Euro Towers (whether or not commissioned by the Buyer) and will be kept strictly confidential by the Buyer and the Buyer will return the same to Euro Towers on request.

### 11. GENERAL

11.1 Any notice to be given under this Agreement shall either be delivered personally or sent by first class or air mail or facsimile transmission. The address for service of each party shall be the address stated above or any other address for service previously notified to the other party. A notice shall be deemed to have been served as follows:

11.1.1 if personally delivered, at the time of delivery;

11.1.2 if posted, at the expiration of 3 days (7 days in the case of air mail) after the envelope containing the same was delivered into the custody of the postal authorities; and

11.1.3 if sent by facsimile transmission, at the time of transmission.

11.2 In proving such service it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority or that the facsimile was transmitted on a tested line as the case may be.

11.3 All notices shall be in writing.

11.4 No waiver by Euro Towers of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.5 if any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.

11.6 The Contract shall be governed by and construed in accordance with the laws of England and the authentic text shall be English and the parties hereby submit to the exclusive jurisdiction of the English Courts.

### 12. INCOTERMS

The definition of incoterms shall be interpreted as stipulated within the International Chamber of Commerce Incoterms Publication Revision 2000.

