

Terms and Conditions v6.0 281020

1. DEFINITIONS -In these conditions, the "Company" shall mean Axess 2 Ltd. The "Purchaser" shall mean the Company or person(s) that places an order with the Company or otherwise agrees to buy Goods from the Company. The "Goods" shall mean all or any of the Goods which from time to time the Company offers for sale and which form the subject matter of the Contract. The "Contract" shall mean the Contract on these Terms and Conditions of Sale for the sale of the Goods by the Company to the Purchaser.

2. VALIDITY -Unless previously withdrawn, the Tender is open for acceptance within the period stated, or within 60 days after its date where no period is stated.

3. GENERAL -Terms or conditions of the company also form the contract, are not to be varied or annulled, unless certain items are expressly agreed in writing by the Company.

4. SPECIFICATION -Any and all specifications from Axess 2 Ltd, drawings and particulars submitted in this quotation together with the Tender are approximate and the descriptions and illustrations contained in the Company's quotation and advertisement matter are only intended as a general description of the Goods proposed therein, and shall not form part of the Contract, only approval drawings and as built drawings from the Company showing all specifications chosen by the Purchaser or their /main contractor/ responsible person, will form the contract for the agreed goods supplied that will be approved by the Purchaser or their main contractor/responsible person to that design shown on the approved drawing.

5. DELIVERY OF GOODS TO SITE - A clean dry storage area must be made available for the duration of the goods being on site, any parts taken or moved without consent of the Company, that are then damaged or lost from any designated storage area will be charged to the Purchaser, and will cause delay to any agreed dates.

6. DELIVERY AND COMPLETION -Estimated times for delivery and completion shall not run from the date of receipt of written order and only from the receipt of drawing approvals that will be issued by the Company for the Purchaser to approve, and any other licenses, permits and approvals as may be necessary to allow the work to proceed. The Company will Endeavour to meet all required delivery dates but failure to do so will not entitle the Purchaser to claim damages from the Company in respect thereof nor rescind the contract, If, due to any circumstances beyond the control of the Company including but not limited to events such as war, travel restrictions, acts of god, terrorism, earthquakes, hurricanes, acts of government, plagues or epidemics (including the effect of coronavirus or covid-19), force majeure, or if the Purchaser cannot accept delivery of the Goods upon the agreed delivery date activated by the signing of drawings, or is otherwise unable to grant access to the Company to the site, the Company reserves the right to recover any cost incurred and invoice the outstanding amount for the materials with immediate payment and deliver them to your storage facility. We will hold the goods with a vesting certificate on your behalf providing full payment is received for a maximum of 2 weeks, after this period a charge of £450 per week will be levied and we withhold the right to invoice for the full amount due.

7. OVERTIME -Unless specifically mentioned to the contrary, in writing, the Tender is based on the assumption that all work shall be carried out in the normal working hours of the Company, and only if agreed, any overtime worked shall be added to the costs as an equal amount to the appropriate costs, overhead charges and profit.

8. PASSING OF RISK -The Goods or any part thereof shall be at the sole risk of the Purchaser from the time that they are delivered, in accordance with the terms of the Contract, whether or not accepted by the Purchaser. Where the Purchaser is unable to accept delivery of all or any part of the Goods, the said risk shall pass to the Purchaser on the notification that the Goods are delivered to the designated site. Once the risk has been passed to the Purchaser as aforesaid notwithstanding any other provisions herein such risk shall be incapable of being passed back to the Company.

9. PATENTS -The Purchaser warrants that any design or instruction furnished or given by it shall not be such as to cause the Company to infringe any letter patent, registered design or trademark in the execution of its order.

10. GENERAL LIABILITY -Save in respect of death or personal injury caused by the negligence of the Company it shall not, either before or after handing over the Goods to the Purchaser, be liable for any loss and/or damage caused by or arising from the use of any Goods otherwise than in accordance with instructions given by the Company from time to time as to its operation and maintenance, and shall not, in any event, be liable for any loss arising out of any cause beyond its reasonable control. The Purchaser shall not use or permit to be used the whole or any part of the Goods supplied under this contract before they have been completed, installed, tested and handed over. If such Goods or any part of them are so used the Purchaser shall indemnify the Company against any liability that should be incurred by the Company to any person whether arising directly or indirectly from such use. Notwithstanding any other provision of the Contract, the Company shall not be liable to the Purchaser by way of indemnity or by reason of any breach of contract or of statutory duty by reason of tort (including but not limited to negligence) for any loss of profit or income or for any indirect or consequential damage whatsoever may be suffered by the Purchaser.

11. INSTALLATION -Any extra costs incurred, due to suspension of work as a result of instructions received from the Purchaser, the lack of such instructions, interruptions, delays, overtime, unusual working hours, and additional work or variations or work for which the Company is not responsible or mistakes or any other causes outside the Company's control, shall be added to the Contract price and be paid by the Purchaser. Any such charges

shall be based upon the Company's normal rates and shall include outworking and lodging allowances where appropriate. The price stated in the Tender is based on the payment of nationally agreed rates for outworking allowances and lodgings. If suitable lodgings are not available at these rates due to circumstances beyond the Company's control the difference in cost including any extra fares incurred shall be added to the Contract price and paid by the Purchaser.

12.AXESS 2 LTD PAYMENT TERMS

1. Unless agreed otherwise in writing from the Company, payment terms 'A' apply whereby the Purchaser shall pay 20% of the price by way of a non refundable deposit at the time of placing of the order; 30% on drawing approval and lift into manufacture, 45% materials 2 weeks prior to goods leaving the factory, 5% after the Company completion and prior to handover to the Purchaser.
2. In the event that the date for the goods leaving the factory is postponed or delayed by the Purchaser at any time and for any reason, then the stage payment of 45% for materials (or such other sum as is agreed) shall instead become payable on the earlier of (a) 2 weeks prior to the revised date for the goods leaving the factory, or (b) completion of the manufacture of the goods by the Company.
3. The Company shall be entitled to Payment for any Variations as and when they are undertaken.
4. In respect of payment any of the aforementioned stages pursuant to clause 12.1 or 12.2, or for any Variations or alternative agreed payments, the 'Due Date' for each payment shall be the same date as the issuing of the relevant claim for payment by the Company. The 'Final date for Payment' of any sum shall be seven days after the relevant Due Date.
5. The Company will be entitled to charge interest and the reasonable costs of debt recovery on overdue payments in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2013 and in addition and without limiting its other rights or remedies, the Company may suspend any or all of its obligations under the Contract if the Purchaser fails to pay any amount due under this Contract by the Final Date for Payment. Where the contract is a Construction Contract as defined by the Housing Grants, Construction and Regeneration Act 1996 (as amended) the Suppliers right to suspend any or all of its obligations under this contract as a result of the Purchaser failing to pay any amount due under this Contract by the Final Date for Payment shall be subject to the notification requirements of s.112 of the Housing Grants, Construction and Regeneration Act 1996 (as amended)
6. If the Purchaser shall fail to pay promptly, he shall lose the benefit of any previously agreed discount.
7. In spite of delivery of the Goods, ownership of the Goods delivered by the Company, the Goods shall remain the property of the Company and title to the Goods shall only be transferred to the Purchaser when the Purchaser has met all that is owing to the Company on whatever grounds.
8. The Purchaser shall pay all accounts in full and not exercise any rights of set-off or counterclaim against invoices submitted.

In the case of a Contract for more than one item which is not preceded simultaneously, the terms of payment set out shall apply as though there were a separate Contract in respect of each item. Should the Purchaser not accept the Goods when they are ready for dispatch or delivery on the agreed time activated, from sign off of drawings (given in weeks within this quotation), payment will become due as if delivery were made and the lift will be stored at the purchaser expense at a rate of £420.00/week after a 2 week free of charge period. All Goods supplied shall remain the property of the Company until full payment of the Contract price and, in the event of the Purchaser failing to make payment, without prejudice to any other remedy in equity or at common law, the Company shall be entitled to enter the premises where such Goods are held and remove the same, whether installed or not. The Purchaser shall not in any way dispose of Goods supplied by the Company in respect of which payment has not been received in full. Notwithstanding any other provisions of the Contract the Company may at its discretion require payment with order or against pro-forma invoices.

13.PRICE VARIATION -All quotations are based on materials and wage rates at the date of Tender and shall be subject to change in accordance with the Formula and Indices for Contract Price Adjustment (current addition) compiled by the Lift and Escalator Industry Association. The proportionate variation in such index between Tender date and dispatch date shall be applied as an increase in the Tender price. Alternatively, if the Tender so states, firm prices are quoted on the understanding that completion within the period specified is not prevented by act or omission of the Purchaser, otherwise price variation as aforesaid shall be applied in respect of over-run period. All prices will be subject to variation in respect of any additional costs arising by virtue of any statute, regulations or orders issued by any Government Department or other duly constituted authority.

Any price adjustment or charge variation referred to above may be invoiced immediately once the amount thereof has been ascertained and be payable forthwith. The provisions of clause 10 above in respect of interest payable on overdue accounts shall be applied to any payments due under this clause should they become overdue. The Tender price, where appropriate, allows for the cost of importing materials based upon the rate of exchange, tax or duty, landing charges, dock duties, demurrage, post premiums and customs duties prevailing at the date of tender. In the event of any adjustment in such rates or costs the Company reserves the right to make an adjustment to the price.

14.PREVENTION OR FRUSTRATION -If the Contract becomes impossible of performance or otherwise frustrated, the Purchaser will be liable to pay the Company all costs, expenses, overheads and any loss of profit which the Company, its suppliers or sub-contractors have incurred, or for which there is liability under the Contract at the time of impossibility of performance or frustration. Any pre-payments which may have been made to the Company under this Contract shall be applied towards satisfaction of such sum as may become due to it under the foregoing provisions and the excess (if any) of such pre-payments will be refunded.

15.DETERMINATION -The Company shall be entitled to determine its employment under the Contract in circumstances where: The Purchaser is in material or continuing breach of any of its obligations under the Contract and fails to remedy such breach within 10 days of receipt of written notification from the Company of such breach, and The Purchaser makes a voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation or an encumbrance takes possession of, or a receiver or manager is appointed over, all or any property or assets of the Purchaser or the Purchaser ceases to carry on business or the Purchaser generally becomes unable to pay its debts within the meaning of section 123 Insolvency Act 1986.

16.MAINTENANCE AND WARRANTY -Full parts warranty period of 1 year and a 3 month callout warranty are included in these terms of sale from the

date of completed installation of our equipment not handover. Callout fees will be applicable in the first 3 months should the reason for the visit be deemed user error or misuse on arrival. Subject to a service agreement being taken with Axess 2 Ltd within the warranty period, the callout warranty will be extended for a further 9 months, only attended in normal working hours Mon-Fri 8-5pm, all other out of hours callouts are chargeable. It is the lift owners responsibility take a service agreement to activate the extra callout warranty within 90 days of handover and send back to Axess2 Ltd. Should the service agreement be with another company Axess 2 Ltd will only provide a 1 years parts warranty, all callouts will be chargeable.

The callout, defects, and parts warranty ceases and is null and void, should the Lift owner or any of its representatives chose to use an alternative service/maintenance provider, not approved or employed by Axess 2 Ltd within and /or at the end of the warranty period, all further liability on the part of the Company ceases.

The liability of the Company under this clause shall constitute its sole liability (save in respect of death or personal injury caused by the negligence of the Company) whether in Contract, tort (including negligence) or otherwise in respect of any defects in the Goods and services supplied under the Contract and any warranties or conditions implied by law are hereby expressly excluded.

17.LAW APPLICABLE -(i) This Contract is governed by, and shall be construed in accordance with, the laws of England. (ii) The Company and the Purchaser irrevocably agree that the Courts of England and shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes which may arise out of or in connection with this Contract and, for such purposes, the Company and the Purchaser each irrevocably submit to the jurisdiction of the Courts of England.

18.CANCELLATION -If the order is cancelled after the Company has accepted it, the Purchaser will become liable to the Company for a cancellation charge as well as the 30% non refundable deposit. That charge will be calculated so as to recover only the direct and indirect costs incurred by the Company in connection with the Purchaser's order setup to the time of the receipt of notification of the cancellation.

19.COLLATERAL WARRANTIES – Where a collateral warranty may be required the wording is to be agreed and in accordance with the LEIA recommended form for the lift industry.

20.COPYRIGHT – Software details are Axess 2 Ltd's own patented software material, and our own make up and design of the lift controller and drive system. Given the commercially sensitive nature of this information and to protect the Axess 2 Ltd's interest, we cannot grant a license to reproduce this information. This amendment must be included as a matter of company policy, we can confirm however that the system can be maintained and functionality amended by any trained person without special access to codes.

21. WORK INSTRUCTIONS – Within the as built drawings supplied by the Company are final agreed finishes, specifications and colours that are full and final as agreed within the approval of drawings from the Purchaser, all other documentation regarding any finishing items, colours and specifications are null and void. Included in these drawings are written instructions for other trades to be arranged by the Purchaser that are required prior to installation and after installation.

22. VARIATIONS – Should the Purchaser instruct any change to the final agreed finishes, specifications and colours as referred to in clause 21 above, then such changes shall be deemed a 'Variation'. The Company shall be entitled to, and the Purchaser shall pay to the Company, a fair and reasonable additional payment for undertaking the Variation. In addition, where any Variation causes a delay, the Company shall also be entitled to an extension of time for any agreed programme/date for completion.

23. CONTINUOUS IMPROVEMENT - We reserve the right to change, product descriptions, specifications including materials, dimensions and finishes, at any time without prior written or oral notice, due to ongoing product innovation, improvement and development

24 GENERAL

1. The Purchaser shall not without the prior consent of the other party assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract.
2. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
3. Any waiver of any right by the Company under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by the Company in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
4. A person who is not a party to the Contract shall not have any rights to enforce its terms.
5. In the event of any conflict between these terms and conditions and the Quotation, then the Quotation shall prevail in respect of that conflict.

25, DISPUTE RESOLUTION

Any dispute between the parties arising out of or in connection with this Contract, may at any time be submitted to adjudication under the rules as set out in part I of the Scheme for Construction Contracts (England & Wales) Regulations 1998 (As amended). The nominating body shall be any nominating body chosen by the Referring party.

Further notes, terms and clarifications of this quotation.

Standards & Deviations

Our offer is based on our high-quality standard passenger lift, supplied in accordance with the European Harmonised Standard EN81 and the Lifts Directive (2014/33/EU) and whilst it will most satisfactorily fulfil its purpose, it may not necessarily meet all the requirements of your individual specification. Therefore, should our offer prove to be otherwise acceptable, we would ask that you give us the opportunity of submitting our explanatory notes, clarifications and deviations from your specification. We hope you appreciate that this is a concerted effort to contain our costs.

Health & Safety: CDM

Axess 2 Ltd. are committed to Health & Safety on site under the Construction Design and Management Regulations (CDM), and will provide all necessary information for the Health & Safety plan. However, we are unable to accept any responsibility for the obligations of the Principle Contractor or for the CDM Co-ordinator.

Health & Safety: Occupied Buildings

Installation within an occupied building will require serious thought to be given to the Health and Safety of the public and installation personnel, so consideration should be given to the following:

- Each entrance be protected by fully enclosed lockable (in both directions) hoardings with minimum dimensions of 2200mm high x 1200mm deep and the full width of the shaft.
- Storage of the lift equipment must be in a dry lockable room or container away from occupied areas.
- Safe unobstructed well lit access must be maintained at all times to all lift entrances and working areas for movement of equipment and or personnel. In certain circumstances it maybe necessary for the main contractor to provide a banksman.
- In extreme circumstances out of hours working maybe required.
- Members of the public must at all times be separated from all work areas by physical barriers.

For further information and advice in this matter please contact us.

Health and Safety: Asbestos in Buildings

Axess 2 Ltd. has a legal obligation to ensure that it provides all its' employees or it's representatives with a safe working environment. Under current Health & Safety legislation, we need to be satisfied that our customers are providing the same level for our on-site operatives, before any representative of Axess 2 Ltd. attends site.

In order to comply with current asbestos requirements (Control of Asbestos Regulations 2012), for all buildings constructed before the end of 1999 we require a detailed Asbestos Register. This must include all the areas of the building to which we will be required to access i.e. redundant lift shafts/motor rooms including access routes to and from the work area. We will review the register and advise accordingly should remedial action be required before our attendance.

If Asbestos has been removed from any area we will be required to access we will need documentary evidence of its removal and evidence that the area is Asbestos free.

This does not preclude you from your obligations under Construction Design and Management Regulations 2015 (CDM:2015).

Waiver – Continuous Improvement Policy

Owing to our policy of continuous improvement we reserve the right to alter dimensions and specifications prior to a contract being agreed. Please only work from our proper building work drawing and schedule. The data sheet enclosed is for guidance only.

Brexit Clause

Upon the United Kingdom no longer being a member of the European Union in any form ('Brexit') and regardless of any of the terms reached regarding any form of Brexit should there be any delay to the delivery by any company ('the Vendor') of goods of any kind to Axess 2 Ltd. at any place within the United Kingdom which is caused directly or indirectly by any of the terms of Brexit then such a delay is agreed to be a non-culpable delay on the part of both Axess 2 Ltd. and the Vendor.

Damages for Delay

All damages for delay caused by the failure of Axess 2 Ltd. shall, for the purpose of this condition, be limited to a maximum of 1% of the sub contract sum per week of delay for a maximum period of 10 weeks. This is an exhaustive remedy for any time related delay.

The Lifts Directive – Your Legal Responsibilities

It is illegal to handover a lift which does not comply with the Lift Directive for example, if the builder has not supplied a dedicated telephone line or permanent 3 phase power or permanent lighting outside landing entrances it will prevent hand over.

In this situation, once written confirmation has been received that the outstanding items are complete, a return visit will be scheduled and may take up to 3 weeks for us to attend site to complete the handover. This may have a cost implication of up to £900 excluding VAT.

Please note, we have a joint responsibility to comply with these regulations which became mandatory on the 1st of July 1999.

Please do everything possible to ensure the building work does not delay the final completion and handover of the lift installation.

Limitations

Where Axess 2 Ltd. attends site prior to manufacture and or installation to take dimensions and/or to determine if the site is sufficiently ready for installation, it remains the absolute responsibility of the Purchaser to ensure that the lift shaft and all other aspects of Builders Work comply with the dimensions and other criteria set out on the Builders Work drawings notwithstanding that Axess 2 Ltd. may not have detected and/or reported any breach of any of the Purchaser's obligations

Please remember, the lift(s) being provided are model lift(s), and therefore not bespoke, and the lift well(s) must be constructed and/or altered to meet the requirements set out in this drawing. We reserve the right to inform you of any additional requirements to facilitate the installation of the lift(s).

The risk and liability in the lift well remains the absolute responsibility of the Purchaser and not the lift contractor. For the avoidance of doubt, the Purchaser fully indemnifies Axess 2 Ltd. for all and any losses, costs or damages that may arise as a result of failure by the Purchaser to comply in all aspects with the Axess 2 Ltd. Builders Work drawings and/or schedules.

