

Conditions of Sale

Application

These conditions alone shall govern and be incorporated in every contract for the sale of goods made by or on behalf of Briteair systems Limited - the Seller. These conditions shall apply in place of and prevail over any terms or conditions of the Buyer or implied by trade, custom, practice or previous courses of dealing. No variations to these conditions shall be binding unless agreed in writing by a director of the Seller.

2. Quotations & Acceptance

- i Any quotation shall be valid for 30 days, unless otherwise agreed in writing by the Seller. However, a quotation by the Seller does not constitute an offer and the Seller reserves the right to withdraw or revise a quotation at any time prior to the acceptance by the Seller of the order from the Buyer.
- ii Notwithstanding any quotation given by the Seller, where the goods by reason of any aspect of their specification have not been manufactured by the Seller before or where a trial production is necessary before full manufacture can begin then no order or agreement shall be binding on the Seller until the Seller confirms by written notice to the Buyer that its investigations and/or its trial production are complete and full production can proceed pending which the Seller will not accept any liability of any nature however arising.
- iii The Seller reserves the right to substitute a comparable product of equivalent specification in lieu of a specific brand or manufacturer's product.

3. Prices

The price of the goods shall be as set out in the quotation or where no price has been quoted, in the price list of the Seller at the time of delivery and shall be based on the costs ruling at the date of acceptance by the Seller of the order from the Buyer. Unless otherwise stated in writing, prices include packaging, carriage and insurance, but the Seller reserves the right to charge for these where the Buyer requests part delivery or delivery to more than one location. Packaging shall be to reasonable industry standard. All prices are exclusive of value added tax, import duties and local taxes, for which the Buyer shall be liable. A minimum charge will apply to small value orders and deliveries as detailed in the current price list of the Seller.

4. Cancellation

No order which has been accepted by the Seller may be cancelled by the Buyer unless agreed in writing by the Seller and on condition that the Buyer shall indemnify the Seller in full against all loss, costs, damages, charges and expenses incurred by the Seller as a result of cancellation.

5. Deliveries

- i Dates given by the Seller to the Buyer for delivery of goods are estimates only and while the Seller will use all reasonable means to adhere to delivery dates but shall be under no liability for failure to do so nor shall the Buyer be entitled to rescind the contract by reason of this. Time of delivery shall not be of the essence of the contract. Part deliveries are permitted and where goods are delivered in installments each delivery shall constitute a separate contract. The Seller may recover any loss, costs, damages, charges and expenses from the Buyer in respect of refusal or failure by the Buyer to accept delivery.
- ii Where delivery is refused by the Buyer the Seller shall take reasonable steps to thereafter store the goods for a period not exceeding two months during which it shall be under no liability to the Buyer for damage to or loss of the goods howsoever caused. After the period of two months the Seller shall be at liberty to dispose of the goods.

6. Returned Goods

The Seller may in its absolute discretion accept returned goods on the basis that the cost of any packaging, carriage and insurance will be paid by the Buyer

and that the Seller shall be under no obligation or liability to give credit to the Buyer for any returned goods, unless otherwise agreed in writing by the Seller.

7. Payment

The Buyer shall pay the price for the goods in full on or before the end of the month following the month of invoice, unless otherwise agreed in writing by the Seller. Time of payment is of the essence of all contracts. The Seller may withhold further deliveries to the Buyer until payment is made in full in respect of all money due and owing by the Buyer to the Seller. If payment is not made by the due date on any invoice, then all issued invoices whether dated before or after the due date of that invoice in respect of which there has been default in payment shall become immediately due and payable in full. If payment is not made by the due date on any invoice, the Seller reserves the right to charge interest to the Buyer on the amount unpaid in accordance with "The Late Payment **of Commercial Debts (Regulations) 2013**". Any costs incurred from referring outstanding invoices to a Debt Recovery Agency will be charged to the debtor.

8. Risk & Title

i Risk of damage to or loss of the goods shall pass to the Buyer on delivery. By accepting delivery, the Buyer warrants that the goods have been delivered complete in accordance with the delivery documentation and in acceptable condition, unless otherwise evidenced in writing within 48 hours of receipt of delivery. Notwithstanding delivery and passing of risk, the goods shall remain the property of the Seller until such time as the Buyer shall have paid the Seller in full for all contracts. Until such time as title in goods passes to the Buyer, the Seller shall be entitled at any time to require the Buyer to deliver up the goods to the Seller 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.

ii At the Seller's discretion the Seller may pursue an action against the Buyer for the price of the goods notwithstanding that title in the goods has not passed to the Buyer.

9. Assignment

The Buyer may not assign or transfer any rights or obligations under the contract without prior agreement in writing by the Seller. The Seller may assign or subcontract any contract.

10. Force Majeure

The Seller shall not be liable to the Buyer or be deemed to be in breach of any contract with the Buyer by reason of any delay in performing or any failure to perform any of the obligations of the Seller in relation to the goods if the delay or failure was due to force majeure or to any other cause beyond the reasonable control of the Seller.

12. Termination

The Seller may terminate the contract without liability to the Buyer by notice in writing to the Buyer if :

i The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (if an individual) becomes bankrupt or (if a company) goes into liquidation or an encumbrance takes possession or a receiver is appointed or the Buyer ceases or threatens to cease to carry on business. ii Payment has not been received from the Buyer in full in respect of all money due and owing by the Buyer to the Seller on all contracts.

iii The Buyer is in breach of any of these conditions.

iv The Buyer is in breach of any other contract with the Seller.

The Provisions of clauses 10 and 13 shall survive termination of the contract for whatever reason by the Seller or the Buyer.

13. Warranty

The Seller warrants that the goods will correspond to the specification agreed with the Buyer and will be free from defects in materials or workmanship.

The obligation of the Seller in the event of a breach of this warranty is limited to the repair or replacement of any defective goods. This warranty is given in lieu of any other warranties or conditions expressed or implied, whether by statute or otherwise, and is subject to the following conditions and exclusions:

i Claims must be notified in writing to the Seller within 48 hours of receipt of delivery or, where the defect is not apparent on reasonable inspection, as soon as practicable after discovery of the defect.

ii Any goods which are subject of any claim must be retained for the inspection by the Buyer or returned to the Seller.

iii The Seller shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by the Buyer. In particular the Seller makes no representation or warranty as to and shall be under no liability for the suitability of the goods for any particular application which is the responsibility of the Buyer who shall rely on their own professional advisers in providing the design or specification and warranties implied by statute shall be deemed to be modified accordingly.

iv The Seller shall be under no liability if the defect or failure, in the reasonable opinion of the Seller, arises from fair wear and tear, wilful damage, misuse, negligence by the Buyer or any third party, failure to follow the instructions of the Seller, or alteration or repair of the goods without prior approval in writing by the Seller.

v The Seller shall be under no liability if the goods have not been paid in full by the due date for payment.

vi The warranty does not extend to parts, materials or equipment not manufactured by the Seller in respect of which the Buyer shall be entitled only to the benefit of any such warranty or guarantee as is given by the supplier to the Seller.

vii Save in the case of death or personal injury caused by the seller's negligence, the seller shall not be liable for any claims for consequential loss or damage or other claims for consequential compensation to include although not limited to

(a) Loss of profits

(b) Loss of use or revenue to include loss of overheads

(c) Loss of interest on moneys withheld under a main or third party contract

(d) Losses due to claims made against the purchaser by a main or third party contractor.

(e) Any other losses howsoever arising out of or in respect of a main or third party contract.

viii The goods are sold subject to the quality standards and manufacturing tolerances of the Seller, a copy of which will be supplied to the Buyer on request.

ix The Buyer accepts and acknowledges that the limitations and conditions of the warranty clauses are deemed to be reasonable within the meaning of the Unfair Contracts Terms Act 1977.

x The Buyer warrants that it will use and install the goods only in jurisdictions in which these conditions are enforceable under English Law.

14. Liability

The Seller Shall not be liable to the Buyer for:

i The cost or provision of specialised equipment or labour for the purpose of replacement work.

ii Any structural work including any repair work or damage howsoever caused.

iii Goods which have been handled or stored incorrectly, or which have not been installed in accordance with the instruction of the Seller, a copy of which will be supplied to the Buyer on request.

iv Units used in service conditions such as, but without limitation, transport vehicles, ships or temperature cabinets, or at altitudes over 800 metres or transportation over such elevation unless specifically agreed in writing by the Seller.

v Units transported to or installed in areas outside the United Kingdom unless agreed in writing by the Seller.

vii Except in cases of death or personal injury caused by the negligence of the seller, any amount in excess of the contract sum or any consequential loss or damage as specifically set out in clause 13 (vii) above.

15. Intellectual Property Rights

The Buyer shall indemnify the Seller against all loss, costs, damages, charges and expenses awarded against or incurred by the Seller as a direct result of the carrying out of any work required to be done to the goods in accordance with the requirements or specifications of the Buyer involving any infringement or alleged infringement of any rights of any third party. The Seller reserves the right to make any changes to the specification of the goods which are required to conform with any applicable statutory requirements or, where the goods are to be supplied to the specification of the Seller, which do not materially affect their quality or performance.

16. Notices

Any notice shall be in writing and shall be deemed to have been duly given when posted using first class inland letter mail or if hand delivered when actually delivered.

17. Confidentiality

Unless notified in writing by the Buyer, any information or documentation supplied by the Buyer to the Seller shall not be deemed to be confidential.

18. Waiver

No waiver by the Seller of any breach of any contract by the Buyer shall be considered as waiver of any subsequent breach of the same or any other provision.

19. Severability

If any provision of these conditions is held to be invalid or unenforceable, in whole or in part, the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected.

20. Applicable Law

These conditions shall be governed by and construed in accordance with English Law and the parties acknowledge and accept the non-exclusive jurisdiction of the English Courts.