

Terms and Conditions of Sale

1. Interpretation

- 1.1 In these conditions:-
"Purchaser" means the person who offers to purchase the goods and whose name and address appear on the order constituting such offer. "Company" means Space Airconditioning plc (registered in England under Company No. 1313460)
"Goods" means the products, services, labour and charges (including any installation of the goods or any parts for them) which the Company is to supply in accordance with these conditions.
"Conditions" means the standard terms and condition of sale set out in this document. "Contract" means the Contract for the purchase and sale of the Goods.
"Writing" includes cable, facsimile transmission and comparable means of communication. Daikin dealer installer or Maintenance Company means a person or company appointed by Space Airconditioning plc.
- 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 "The Manufacturer" means Daikin and/or Mizushi and/or Space Airconditioning plc.

2. Basis of the Sale

- 2.1 An invoice will be deemed to be accepted if not queried within 7 days from date of invoice.
- 2.2 These Conditions shall govern the Contract to the exclusion of any other terms and conditions unless otherwise agreed in writing by the parties to the Contract (including but without limitation any terms or conditions which the Purchaser purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.3 In entering into the Contract the Purchaser acknowledges that it does not rely on any statement, promise or representation made or given by or on behalf of the Company unless such representations are confirmed in writing by or on behalf of the Company. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.3 The Purchaser further acknowledges that prior to submitting an offer or order for the Goods it has received a copy of these Conditions and makes its offer to purchase in full knowledge and acceptance thereof, unless agreed specifically in writing by the Company and the Purchaser.
- 2.5 If at any time the Purchaser (being an existing credit account customer) being a company shall alter its constitution or being a sole trader or partnership shall become incorporated or amalgamated with others it shall be the duty of the Purchaser to give prior written notice to the Company of the intended change (should the Purchaser wish to continue credit account facilities following any intended change). Continuance of trading with the amalgamated entity or commencement of trading with a new entity shall be in the sole discretion and only deemed undertaken by the Company if a written acknowledgement and acceptance is issued by the Company's credit controller or Financial Director.
- 2.6 No quotation or estimate given by the Company shall constitute an offer for sale and no contract shall exist until an offer or order has been accepted in writing by the Company whereupon these conditions shall be binding to the exclusion of any other terms or conditions.
- 2.7 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, drawings, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

3. Orders and Specifications

- 3.1 The Purchaser shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Purchaser and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
- 3.2 The quantity, quality and description of any specification for the Goods shall be those set out in the Purchaser's order which shall be in accordance with the Company's quotation unless agreed otherwise by the Company in its written acceptance of the Purchaser's offer.
- 3.3 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.
- 3.4 The Company 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.
- 3.5 Changes to an accepted order shall be treated as a separate order, unless otherwise agreed in writing by the Company. If any changes are made to an original order, the price, discount on or delivery date of that order are subject to change.
- 3.6 No order which has been accepted by the Company may be cancelled by the Purchaser except with the agreement in writing of the Company.
- 3.7 In the event of unauthorised cancellation the Purchaser shall be responsible to the Company for 25% of the value of the goods cancelled for all loss (including loss of profit) costs (including the cost of all labour and materials used) damages, charges and expenses incurred by the Company as a result of cancellation.

4. Price of the Goods

- 4.1 The price of the Goods is fixed unless otherwise stated or agreed in writing between the parties.
- 4.2 The price is exclusive of VAT.

5. Terms of Payment

- 5.1 Subject to any special terms agreed in writing between the Purchaser and the Company, the Company shall be entitled to invoice the Purchaser for the price of the Goods on or at any time after delivery/ collection.
- 5.2 The Purchaser shall pay the price of the Goods within 30 days of the date of the Company's invoice whether or not delivery/ collection has taken place.
- 5.3 If the Purchaser fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:-
(i) Cancel the Contract or suspend any further deliveries to the Purchaser;
(ii) Charge interest at the rate of 3% per month on all overdue balances;
(iii) Charge the Purchaser such reasonable costs as it may incur in recovering any overdue balances.
- 5.4 All accounts are payable on demand. In the absence of demand, payment in full for the goods supplied shall be made by the Purchaser to the Company on or before the last day of the month following the date of invoice.
- 5.5 The time within which the Purchaser is to pay for the goods shall be of the essence of this contract and in the event the Company shall fail to make payment by the due date, all sums due to the Company from the Purchaser under this or any other contract for the supply of goods shall forthwith become due and payable to the Company.
- 5.6 Any discount offered by the Company for prompt payment shall cease to apply if payment in full is not made on the due date and where payment is by installments any discount given shall be recoverable by the Company in the event of late payment of any instalment. If payment is received late and discount taken, then that payment will be considered as a part payment and discount amount will remain outstanding and due.
- 5.7 The Purchaser shall make all payments due under the Contract in full without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise.

6. Delivery

- 6.1 The Purchaser acknowledges that if it or its employees, agents or sub contractors enter on the Company's premises in connection with this Contract then they do so completely at their own risk and the Company hereby excludes to the fullest extent permitted by law all liability to the Purchaser its employees or those of the agents or subcontractors of the Purchaser while in or about the Company's premises, or any place of business or any contractor's site.
- 6.2 Delivery of the goods shall be deemed to take place when they are actually delivered/collected by/to the Purchaser or his representative to the Purchaser's premises or to premises designated by the Purchaser and accepted in writing by the Company.
- 6.3 The time for delivery may be extended by the Company for a reasonable period if delay in delivery is by reason of any cause beyond the Company's reasonable control provided that the Company shall have notified the Purchaser immediately (a minimum of 24 hours) on becoming aware of the cause of any such delay.
- 6.4 Failure by the Company to make delivery on any particular date shall not entitle the Purchaser either to cancel the order or the delivery or to repudiate this contract or to claim for any expenses, loss of profit, or any other consequential loss or damage whatsoever.
- 6.5 If the Company is not notified by the Purchaser of cancellation/postponement of delivery and Goods having been despatched have to be returned for redelivery then a charge will be made together with a handling and administration cost.
- 6.6 Where the Goods are to be delivered by installments each delivery shall constitute a separate Contract and failure by the Company to deliver any one or more of the installments in accordance with these conditions or any claim by the Purchaser in respect of any one or more installments shall not entitle the Purchaser to treat the Contract as a whole as repudiated.
- 6.7 If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Purchaser's fault and the Company is accordingly liable to the Purchaser, the Company's liability shall be limited to the difference (if any) between the price of the Goods and the cost to the Purchaser (in the cheapest available market) of similar goods to replace those not delivered.
- 6.8 Timed deliveries: the Company will only be liable if a timed delivery charge has been made.
- 6.9 Delivery to site: an authorised representative of the Purchaser must sign for the Goods.
- 6.10 Goods will not be left without signature.
- 6.11 Damage claims must be notified within 3 (three) working days from date of delivery. No claims will be accepted after that.
- 6.12 Off-loading, positioning or supervision of goods is not the responsibility of the Company.

7. Returns

Goods supplied in accordance with the Purchaser's order and subsequently returned, will only be credited provided that the Company's written agreement has been obtained and provided that the price at which the goods will be credited has been agreed by the Company and that the goods are unused and undamaged.
All returns are subject to a minimum restocking charge of 5% up to a maximum of 100%. Specially ordered items cannot be returned.

8. Risk and Property

- 8.1 Risk of damage to or loss of the Goods shall pass to the Purchaser at the time of delivery, or if the Purchaser wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods or any other provisions of these conditions or Goods supplied by the Company to the Purchaser shall remain the sole and absolute property of the Company both in law and in equity until the Purchaser shall have paid the Company in full for such Goods and for any other Goods supplied by the Company to the Purchaser.
- 8.3 The Purchaser acknowledges that it is in possession of all Goods supplied to it by the Company solely as bailee for the Company until the Purchaser shall have paid the Company in full for such Goods and for any other Goods supplied by the Company to the Purchaser.
- 8.4 Until such time as the Purchaser becomes the owner of the Goods in accordance with the above provisions the Purchaser shall store on its premises at its own sole risk separately from its own goods or those of any other person and in a manner which makes them at all times readily identifiable as the Company's Goods.
- 8.5 The Purchaser's right to possession of the Goods shall cease if it does anything or fails to do anything which would entitle a Receiver to take possession of any of its assets or if a person presents a Petition for winding up or bankruptcy against the Purchaser or if it becomes insolvent.
- 8.6 For the purpose of examining or recovering its Goods supplied to the Purchaser the Company may enter upon any premises where the Goods are stored or where the Company reasonably believes them to be stored.
- 8.7 Until such time as pursuant to the above provisions either the Purchaser shall have acquired property in the Goods or the Purchaser shall have ceased to have the right to possession of the Goods the Purchaser is hereby licensed by the Company to sell the Goods in the ordinary course of business of the Purchaser on the Company's behalf as agent save that the Purchaser shall not hold itself out as such but shall sell on its own account.
- 8.8 In the event that the Purchaser becomes insolvent and the Company repossesses the goods then the Company will issue the Purchaser with a valid VAT credit note.

9. Warranties and Liability

- 9.1 Subject to the conditions set out below the Company warrants 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 period of 36 months from the date of installation or 42 months from the date of delivery whichever is the shorter period for Daikin equipment. For Mizushi equipment, Space Air accessories and Daikin controls warranty is 12 months from date of delivery.
- 9.2 The above warranty is given by the Company subject to the following conditions:
(a) The Goods are installed by an authorised dealer or installer of the Company.
(b) A Maintenance Contract is set up within 3 months from date of installation/commissioning.
(c) The goods are maintained in accordance with the manufacturer's instructions by an authorised dealer/ installer/maintenance Company.
(d) The Company will not issue credits for either parts or labour allowance until complete warranty forms and faulty parts are returned.
(e) Repeat Warranty replacements will be subject to investigation by Space Airconditioning plc and/or the manufacturer.
(f) Warranty forms must be returned within 21 days of advice date and, if not, an invoice will be issued for payment without further notice.
(g) The Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Purchaser, or for defects caused by faulty installation.
(h) The Company 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 the Company's instructions, misuse or alteration or repair of the Goods by anyone other than an authorised dealer or installer of the Company.
(i) The Company shall be under no liability under the above warranty if the total price for the Goods has not been paid by the due date for payment.
(j) Spare Parts: spare parts excluding compressors are subject to 12 months warranty period from date of delivery. Compressors supplied as spare parts are subject to 90 days warranty period from date of delivery.
- 9.3 Labour contribution depends on the part being replaced and is in accordance with the manufacturer's Schedule of Payment. No additional charge or expenses will be acceptable.
- 9.4 The extended warranty does not apply to unmatched equipment as recommended by the manufacturer where only 12 months warranty will apply from date of delivery.
- 9.5 If the Company is required to attend on site in the event of a breakdown travelling expenses and labour costs will be chargeable.
- 9.6 Upon request by the Company the Purchaser shall provide the Company with evidence of regular maintenance under a maintenance contract at the time of any warranty claim.
- 9.7 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.
- 9.8 Where any valid claim in respect of any Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Conditions the Company shall be entitled to replace the Goods (or the part in question) free of charge or at the Company's sole discretion refund to the Purchaser the price of the Goods (or a proportionate part of the price) but the Company shall have no further liability to the Purchaser.
- 9.9 Except in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Purchaser by reason of any representation or any implied warranty, condition or other term 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 the Company, 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 Purchaser except as expressly provided in these conditions.
- 9.10 The Company is not liable for any damage to third party property as a result of water damage through leaks and condensation.

10. Force Majeure

The Company shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Company's reasonable control:-
(i) Act of God, explosion, flood, tempest, fire or accident.
(ii) War or threat of war, sabotage, insurrection, civil disturbance or requisition.
(iii) Import or export regulations or embargoes
(iv) Strikes, lock outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party)
(v) Power failure or breakdown in machinery.

11. Confidentiality

The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives (including but without limitation pricing information and other information or advice contained in quotations or during the quotation process) which are of a confidential nature and have been disclosed to the Purchaser by the Company, its employees, agents or sub-contractors whether orally or in writing and whether or not specifically marked confidential and any other confidential information concerning the Company's business or its products which the Purchaser may obtain.

12. Purchaser's Information

Except as may be necessary for the execution of the Contract or as the Purchaser may authorise in writing the Company shall not except where it is necessary for proper performance of the Contract disclose or make use of the information contained in any drawings, designs, instructions, descriptions, specifications or samples provided by the Purchaser and all such drawings, designs, instructions, descriptions, specifications and samples and all copies thereof shall be returned to the Purchaser upon request upon completion of the Contract.

13. General

- (1) Pre-Sale Confidentiality: The information contained in any tender document or any quotation shall be treated by the enquirer or prospective Purchaser and his agents as strictly private and confidential until the date it awards the contract, which is the subject of the tender document or quotation. The enquirer or prospective purchaser and his agents shall take all reasonable precautions to ensure that the tender or quotation information is not disclosed to any party whatsoever unless its disclosure has been expressly authorised in writing by the Company.
- (2) Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- (3) 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 provision in question shall not be affected thereby.
- (4) The Contract shall be governed by the Laws of England and the parties irrevocably agree that the Courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with it or its subject matter.