

TERMS & CONDITIONS OF SALE

1. Definitions

- In these conditions:-
- the 'seller' means Compact Air Conditioning Ltd;
 - the 'buyer' means the person, firm or company who places an order with the seller for the purchase and/or supply of any goods or services;
 - the 'goods' means the products supplied by the seller which are the subject of an order placed by the buyer with the seller;
 - the 'services' means the services performed by the seller which are the subject of an order placed by the buyer with the seller.

2. Contractual Terms

- These conditions shall apply to all contracts for the sale of goods and/or the performance of services entered into by the seller to the exclusion of the terms and conditions of the buyer;
- All drawings, illustrations, performance data and other details in the sellers catalogues, sales or promotional literature or elsewhere are included as a guide only, and whilst such details are printed in good faith they shall not bind the seller. The seller reserves the right to change specifications without prior notice at its absolute discretion.
- No variation, cancellation or waiver of these conditions shall be of any effect unless made in writing signed by a duly authorized officer of the seller and the buyer;
- Typographical or clerical errors or omissions shall be subject to correction;
- The buyer must notify the seller within seven days of the date of the seller's acceptance or acknowledgement of order if such acceptance or acknowledgement does not accurately confirm the buyer's order failing which the buyer shall be bound by the terms of the acknowledgement.

3. Creation of Contractual Relations

Unless previously withdrawn the seller's quotation and tenders shall remain valid for the period stated therein or if no period is stated for 30 days from their date. The seller's offers, estimates, quotations, tenders and price lists are invitations to treat only. All orders must be in writing and must be accompanied by sufficient information to enable the seller to proceed without delay with the execution of the order. All orders require the seller's acceptance in writing in order to create a contract. Any such acceptance shall nevertheless be subject to the buyer's credit being approved and to cancellation without liability at the instance of the seller should the seller subsequently find the buyer's credit inadequate.

4. Prices

- All prices include only such goods, accessories and services as are specified in the quotation and are for the quantities therein expressed. If the buyer shall request any variation in quantity or performance the price may be varied accordingly.
- Unless otherwise specified prices quoted do not include Value Added Tax, which will be added at the rate prevailing at the appropriate tax point.
- Unless otherwise specified prices quoted do not include carriage, which will be charged at extra cost. Where the quoted prices do include carriage the seller shall determine the route and method of carriage and any special requirements of the buyer shall be subject to an additional charge.
- Unless otherwise specified prices quoted include the seller's and/or its supplier's standard non-returnable packaging. It is the buyer's responsibility to dispose of all packaging after delivery.
- At any time before delivery has been completed the seller shall be entitled to vary the price of the Goods and/or Services to take into account all or any of the following factors:-
 - Where goods are imported any variation of currency exchange rates or special taxes or charges imposed by any government;
 - Increased costs resulting from the prohibition or other actions of any government;
 - Increased labour costs;
 - Increased material costs;
 - Increased transport costs (if carriage is included in the quoted prices);
 - Implementing any request by the buyer for expedited dispatch or changes in delivery, schedules, completion dates, quantities, designs, specifications or performance;
 - Delays caused by instructions of the buyer or by failure of the buyer to give adequate instructions or information.

5. Payment

Unless otherwise agreed in writing by the seller payment is strictly net 30 days from the date of invoice. Time of payment shall be the essence of all contracts. In default of payment on the due date the seller without prejudice to its rights hereunder shall have the right to charge the buyer interest at the rate of 3% above the base rate from time to time of the National Westminster Bank. The seller shall at its discretion (without prejudice to its right to treat the contract as repudiated and claim damages) be entitled to withhold dispatch of the Goods and/or performance of the services or any of them until all monies owing to the seller by the buyer have been paid in full.

6. Property and Risk

- Until payment in full for all goods and services sold by the seller to the buyer (whether under this or any other contract) has been received by the seller;
 - Ownership of the Goods shall remain with the seller;
 - The seller reserves the right to dispose of the Goods, and the seller shall be permitted to enter upon the buyer's premises, or any other premises where the goods are located, at all reasonable times to recover the Goods for this purpose;
 - The Buyer shall store the Goods so that they may be readily identified as the property of the Seller and during such time the Buyer shall ensure that the Goods are kept and maintained in the condition in which they were delivered. The Buyer may sell the Goods or any part thereof only by way of bona fide sale at full market value, and where he does so, he shall be entitled for the purpose of such sale to remove those goods from the said place of storage. However, ownership of the goods will remain subject to clause 6(a) above.
- The risk in the Goods shall, subject to Clause 8(b), pass to the Buyer on delivery to the buyer or the Buyer's carrier.

7. Delivery and Performance

- Time of delivery of the Goods and/or performance of the Services shall not be of the essence of the contract. The periods quoted commence from the date of order acknowledgement but are estimates only. Whilst the Seller shall use reasonable commercial endeavours to deliver the Goods and perform the Services by the date (if any) specified on the order acknowledgement it shall not be liable in any way for delay in delivery or performance from any cause whatsoever and howsoever arising nor shall such delay entitle the Buyer to reject the Goods or Services or treat the contract as repudiated or render the Seller liable for damages in any way;
- Where delivery charges are specified the Seller nevertheless reserves the right to make an additional charge for loading, delivery or off-loading outside the hours of 8:00 a.m. and 5:00 p.m. Monday to Friday or in the event of any special arrangement of whatever nature being required;
- The Seller shall have the right to dispatch any portion(s) of the Goods covered by the contract separately and to invoice the Buyer for such portion(s) so dispatched on the same terms and conditions as are contained herein;
- It is the Buyer's duty to inform the seller of the detailed delivery requirements in advance and to provide due warning and notice of any changes in such requirements.

8. Non-acceptance by Buyer

- If by reason of the Buyer's default the Goods or any of them have not been taken up or delivered by any date specified for such taking up of delivery, then:-
 - The Buyer shall nevertheless pay the Seller in accordance with Clause 5 of these conditions as if such taking up or delivery has occurred; and
 - The Buyer shall pay the Seller a storage charge in respect of any of the Goods, which have not been taken up or delivered together with the cost of any additional handling and transport incurred. In the event that such storage by the Seller shall continue for a period exceeding six weeks the Seller may (without prejudice to any other rights which may have accrued) treat the contract as repudiated;

- During the period of any storage of the Goods or any of them by the Seller as contemplated by sub-clause 8 (a) (ii) above such goods shall be at the risk of the Buyer.

9. Loss or damage in transit and non-delivery of Goods

- No responsibility will be accepted by the Seller for any shortage or damage occurring in transit unless:
 - Where the Goods are delivered other than by the Seller's transport the Buyer makes a claim in writing providing full particulars to the Secretary of the Seller at the Seller's registered office within seven working days of receipt of the Goods;
 - Where the Goods are delivered by the Seller's transport details of any shortage and/or damage are endorsed on the delivery note;
- No responsibility will be accepted by the Seller for non-delivery of the Goods unless the Buyer makes a claim in writing providing full particulars to the Seller at its registered office and (where appropriate) the carrier not less than fourteen and not more than twenty-eight days after the date of the Seller's advice note;

10. Cancellation and Variation

No cancellation or variation of an order by the Buyer shall be effective unless made in writing and until accepted in writing by an authorized officer of the Seller at its registered office. The Seller reserves the right to refuse or to accept cancellation or variation only subject to such conditions as the Seller may determine. Acceptance by the Seller shall be subject to payment by the Buyer of such cancellation or variation charges, as the Seller shall deem reasonable. Such charges shall take into account expenses incurred and commitments made by the Seller and all other losses due to such cancellation or variation.

11. Force Majeure

Should any event occur whether at the Seller's premises or elsewhere which is beyond the control of the Seller such as by way of example industrial action or dispute (including strike or lock out) shortage of materials, act of God, war, fire, flood, drought, breakdown of machinery, as a result of which the performance of this contract is prevented or delayed:-

- Without prejudice to its rights in the event of breach of contract by the Buyer the Seller reserves the right to cancel delivery or other performance of the Seller's obligations under any contract in whole or in part and in the event of the Seller exercising such right the Seller's liability shall be limited to the repayment to the Buyer (without interest) of any part of the purchase or contract price or charge already received by the Seller and attributed to any unfulfilled and cancelled part of the contract less any expenses incurred by the Seller down to the date of cancellation in part performance of the contract.
- If such prevention or delay continues for 60 days the Buyer may elect either to cancel the contract or to allow the order to remain on the books of the Seller and to be completed at some later date at an adjusted price to be determined by the Seller.

12. Warranty and limitation of liability

- The Buyer shall have the benefit of a warranty on all parts supplied for a period of 12 months from date of supply, excluding consumable items. Labour costs, travel and accommodation will be charged. The Seller may vary the terms of such warranty at its discretion. The Buyer is deemed to have full knowledge of the terms of such warranty. The Seller will indemnify the Buyer against any loss or damage suffered by the Buyer as a result of death, personal injury or damage to property caused by the seller's negligence or default in performing these Services, provided that the Seller's liability for such loss or damage shall be limited to a sum not exceeding £1,000,000 (£1 million) for any one event and the Seller shall not have any liability for consequential losses (e.g. loss of profits). The Seller makes no other representations or warranties in relation to the Goods and Services. All other conditions express or implied statutory or otherwise in respect of the Goods or their use or the Services and which are capable of exclusion are hereby excluded. Subject to sub-clause 12(a) and 12(b) above and to the extent that is permitted by law the Seller in particular hereby excludes its liability for any loss or damage whether in contract, tort or otherwise whether direct or consequential (other than for death or personal injury resulting from the proven negligence of the Seller) suffered by the Buyer in connection with the Goods or their use or the Services. Sub-Clause (a) of this Clause 12 shall be subject to the proviso that no warranty provided by the Seller will apply:-
 - 1) Unless a valid Service & Maintenance Contract is in place, and records kept to show that all scheduled service and maintenance has been completed when due.
 - 2) Where the Goods have been installed, repaired or alteration made by anyone other than the Seller's representatives or authorized agent; or
 - 3) Where the Goods have not been installed, commissioned or operated in accordance with procedures prescribed by the Seller.

13. Substitutions

In the event of non-availability of materials or parts the Seller reserves the right to use suitable alternative materials or parts where possible. Such substitutes shall be accepted by the Buyer in full satisfaction and performance of the contract or that part thereof, for which it is a substitute as the case may be. In the event that the Seller is unable to obtain a satisfactory substitute its obligations to complete performance of the contract shall upon notification in writing to the Buyer be suspended until such time as the unavailable materials or parts or suitable substitutes become available.

14. Sub-contracting

The Seller shall be free to employ sub-contractors

15. Indemnity

- The Buyer shall indemnify the Seller against all claims, demands, damages, penalties, costs and expenses for which the Seller may become liable by reason of the infringement of any patent, registered design, trade mark, copyright (including design copyright) or any other intellectual property right arising out of the Seller's performance of the contract in accordance with Buyer's specifications.
- The Buyer will indemnify the Seller against any loss, damage, or delay of any kind whatsoever, irrespective of who may have caused such loss except where such loss is caused by the negligence of the Seller's servants or agents.

16. Health and Safety

The Buyer shall comply with the provisions of all relevant Health and Safety legislation applicable at the time and any amendments to it and any other relevant regulations to ensure the safety of the Seller's employees and agents. The Buyer shall provide safe access to all systems and equipment that may be accessed within these Services. The Buyer shall indemnify the Seller in respect of any proceedings, actions or claims as a result of any failure to comply with this clause.

17. Copyright and Confidentiality

The Buyer hereby acknowledges that the copyright in all documents (including drawings) supplied by the Seller to the Buyer shall vest in the Seller. In no circumstances whatsoever shall such documents or their contents be used for any purpose other than that for which they were supplied.

18. Waiver

No waiver by either party in respect of any breach by the other shall operate as a waiver in respect of any subsequent breach.

19. Severability

Any provisions of these conditions which in any way now or subsequently contravene the law shall be deemed severable and shall not affect any other provisions herein.

20. Governing Law

Any contract of which these conditions form part shall be governed by the laws of England and shall be subject to the exclusive jurisdiction of the English Courts.

21. Notices

Any notices required to be served hereunder shall be deemed to be properly served if sent by prepaid registered or recorded delivery post to the last known address of the party and shall be deemed to be duly served the day following the date of posting.

22. Clause Headings

The clause headings shall not affect the interpretation of these conditions.