

**Terms and Conditions Air Management & Design Limited**  
**(Registered No: 3529444) Dated 14.09.04**

**1. General**

- (a) All Contracts for the supply of goods and/or services by Air Management & Design Ltd (hereinafter referred to as “the Company”) to any person, firm or company (hereinafter referred to as “the Customer”) shall be subject to these terms and conditions which shall apply to the exclusion of any terms and conditions of the Customer unless otherwise expressly agreed in writing by a duly authorised representative of the Company.
- (b) No variation or amendment of these terms and conditions shall be made unless expressly agreed in writing by a duly authorised representative of the Company.
- (c) Unless previously withdrawn by the Company, a quotation of the Company is open for a period of 30 days from the date of quotation. No quotation shall constitute an offer or tender but shall be deemed to be an invitation to treat.
- (d) A contract shall be created only when the Company, through a duly authorised representative, has accepted either in writing or orally an offer from the Customer to purchase goods; such acceptance shall thereupon create a contract to be governed by these terms and conditions.
- (e) The term “goods” shall mean goods and or services directly supplied by the Company. Goods which are bought in for a Customers job do not form part of this contract for the purpose of clause 5.
- (f) The term “despatched” shall mean the time of leaving the premises of the Company or any other place from which the Company organises despatch.

**2. Prices.**

- (a) All prices quoted, unless where otherwise expressly stated in writing are exclusive of Value Added Tax, excise duties, import levies, landing charges, freight carriages, insurance and other charges of whatever nature and will, where appropriate, be paid by the Customer.
- (b) The prices charged by the Company will be those ruling at the date of despatch. The Company reserves the right in it’s unfettered discretion to vary the price from that quoted or from that prevailing at the contract date in the event of any rise or fall in the cost of materials, labour services, interest rates, transport and statutory charges between the date of contract and the despatch. Further the Company reserves the right at it’s sole discretion to increase any price if the Customer requests the Company to vary, modify or amend the contract, provided such increase is reasonable.

**3. Payment.**

- (a) Unless otherwise agreed in writing between the Company and the Customer, payment for goods shall be made by the Customer on or prior to the end of the month following the month in which the goods were supplied. Payments shall be made in the currency of sterling unless otherwise agreed. For the avoidance of doubt if the Company’s quotation details a payment profile and the Company creates a contract in accordance with Clause 1(d) then that payment profile shall be deemed to be otherwise agreed in writing.
- (d) The Customer shall pay interest on overdue accounts or so much thereof as shall be overdue at the rate of 5% over the Company’s Bank’s base lending rate from time to time in force until the date of payment.

**4. Delivery.**

- (a) Any time quoted or given for delivery of the goods is intended as an approximate estimate only. The Company shall not be liable for any loss or damage of any kind whatsoever arising directly or indirectly out of any delay or failure to deliver the goods on the estimated delivery time and/or date.
- (b) The Company reserves the right to despatch and invoice for any part of goods available.

**5. Damage or Loss in transit/defective goods**

- (a) Subject to the terms and conditions of this contract, the Company shall not be liable in respect of any damage/loss in transit of goods howsoever caused unless notice in writing is given to the carrier and to the Company within the period specified in the contract of carriage (if any) or within 7 days of the date when the goods were received or would in the ordinary course of events have been received, whichever is the earlier. Any such liability shall be limited to the provisions of the carriers contract, or where transit is undertaken by the Company to the provisions of Clause 5(b)

- (b) In the event that any goods supplied by the Company or any part thereof are found to be defective owing to faulty workmanship or materials, or transit damaged caused by the Company and not arising from the Customers default, neglect or misuse, the Company will at its option, refund the price paid for or replace any goods forming a whole or any part of the goods supplied, provided that, the Company is notified in writing within 7 days of discovery of any such defects and that such goods are returned, carriage paid, to such place as the Company shall direct. Time limits in relation to damage in transit are dealt with in Clause (a). In relation to defective goods owing to faulty workmanship or materials not arising from the customers default, neglect or misuse the provision of this Clause shall automatically expire 12 calendar months from the date of delivery.

**6. Passing of Risk.**

- (a) Unless otherwise agreed in writing, where the Company supplies any goods to the Customer the risk in such goods shall pass on delivery to the Customer.

**7. Title.**

- (a) Notwithstanding delivery and passing of the risk in any goods supplied by the Company to the Customer pursuant to clause 6 hereof, the Company shall retain title of the goods until the contract price has been paid in full and until all monies payable by the Customer to the Company under any contract made between the Company and Customer have been paid in full.
- (b) Until the title in the goods passes to the Customer pursuant to the provisions of sub-clause (a) hereof the Customer shall keep the goods as bailee of the Company and in this connection shall set aside the goods separately from other goods in the Customer's possession and shall identify the goods as the property of the Company. If the goods are fixed to other goods or walls etc the Customer shall clearly identify them as the property of the Company until title passes.
- (c) If at any time before the title in the goods passes to the customer pursuant to the provision of sub-clause (a) hereof the Customer sells the goods or any part thereof he shall do so as bailee and shall account to the Company as agent of the Company for the proceeds of sale thereof.
- (d) The Company shall be at liberty at any time before the title in the goods passes to the Customer pursuant to the provisions of sub-clause (a) hereof to require the goods to be returned to it and if the requirement is not immediately complied with by the Customer, the Company may retake possession thereof and may enter any premises of the Customer or any other premises where the goods may be for such purpose. Such return or repossession shall be without prejudice to the rights of the Company to recover all sums owing by the Customer to the Company and to the Company's rights to claim damages against the Customer for the breach of any obligations on the part of the Customer arising under the contract. Any reasonable expenses incurred in such return and repossession of the goods or any unreasonable damage caused to any land by the Company in exercise of its powers hereunder shall be borne by the Customer.
- (e) Until title of goods passes to the Customer, the Company or any person nominated by it shall be entitled to enter into the Customer's premises from time to time for the purpose of:-
- i) ensuring that the Customer has complied with the provisions of sub-clause (b) hereof;
  - ii) inspecting all books, accounts, records, documents, papers etc of the Customer for the purpose of determining sums due to the Company by virtue of the provisions of sub-clause (c) hereof;
  - iii) for the purpose of exercising its rights of repossession under sub-clause (d) hereof.

**8. Exclusion of Liability.**

- (a) The Customer must rely on its own skills and judgement in relation to the goods. Except as otherwise expressly provided in Clause 5 the Company shall not in any circumstances be under liability whatsoever to the Customer whether in contract, tort or otherwise for any defect in, failure of or unsuitability for any purpose of the goods or for any consequential loss (including loss of profit, use or goodwill or similar financial loss) damage, claim or any other liability howsoever caused whether or not due to the negligence of the Company or its servants or agents or to faulty design, workmanship or materials. All conditions, warranties or other terms whether expressed or implied, statutory or otherwise inconsistent with the provisions of this clause are hereby excluded provided that nothing in this clause shall exclude or restrict:

- (i) any liability of the Company for death or personal injury resulting from negligence of the Company or its servants or agent;
  - (ii) any liability of the Company for breach of its implied undertakings as to title; and
  - (iii) where the Customer deals as consumer within the meaning of the Unfair Contract Terms Act 1977, any liability of the Company for breach of its undertakings as to conformity of the goods with description of sample or as to their quality or fitness of a particular purpose.
- (b) It shall be the responsibility of the Customer to assume and to cover by insurance, if the Customer so wishes, the risks which fall on the Customer as a result of the incorporation of this clause or other clauses in the contract.

**9. Cancellation By The Customer.**

- (a) Orders placed by the Customer cannot be cancelled except with the Company's consent in writing and upon terms that:
- (i) the Customer shall be liable for reasonable costs, expenses and losses of any kind suffered or incurred by the Company resulting directly or indirectly from such cancellation;
  - (ii) it shall be the responsibility of the Customer to return all goods the subject of a cancelled order to the Company's works or such other place as the Company may specify in good condition;
  - (iii) risk in the goods shall not revert to the Company until a receipt for the cancelled goods is signed by a duly authorised representative of the Company.

**10. Suspension/Cancellation By The Company.**

- (a) In the event of the performance of any obligation or part obligation accepted by the Company being prevented, delayed or in any way interfered with by either:
- (i) rules, regulations or orders of the Government or Local Authority war, riot, civil disturbance, strike, industrial action short of a strike, lock out, accident, fire or any other cause beyond its control; or
  - (ii) shortage of labour or materials or non delivery by the Company's supplier or damage to or destruction of the whole or part of the goods, then

the Company may at its option suspend performance or cancel its obligations under the contract without liability for any damage or loss of any kind whatsoever resulting therefrom such suspension or cancellation. This right is without prejudice to the Company's right to recover all sums owing to it in respect of goods delivered which were not the subject of this Clause 10 hereof.

**11. Default of Customer.**

- (a) Should default be made by the Customer in paying any sum due under this or any contract with the Company, the Company, at its option, shall be entitled to suspend delivery until the default is made good or treat such default as a repudiation of the contract in which case the Customer shall (without prejudice to any right which the Company may have for the return of any goods or the payment of any compensation of damages) pay the Company's reasonable charges for any costs incurred in the course of all preparation of any kind made by the Company for the late on non-performance of the Contract by the Company.

**12. Insolvency.**

- (a) If any distress or execution shall be levied upon the Customer his property or assets or if the Customer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or if the Customer shall be a limited company and any resolution or petition to wind-up such company's business shall be passed or presented (otherwise than for a bona fide reconstruction or amalgamation) or if a receiver of such company's undertaking property or assets or any part thereof shall be appointed, the Company shall have the right forthwith to determine the contract.

**13. Compliance.**

- (a) No relaxation, forbearance, delay or indulgence by the Company in enforcing any of the terms and conditions of any contract shall prejudice the Company's right to insist upon the strict compliance therewith nor shall the same constitute a waiver or an estoppel.

**14. Governing.**

- (a) These terms and conditions of supply and any contract between the Company and the Customer are governed by and are to be construed in accordance with the laws of England, the non-exclusive jurisdiction of whose courts the Customer agrees to submit.

**15. Notices.**

- (a) Any notices to be served under this Contract shall be deemed to be duly served on the second day after the date of posting, provided that such notice was posted by first class mail
- (b) Notices to be served on the Customer shall be served at either the place where the goods are delivered and/or performed or its usual business address.
- (c) Notices to be served on the Company shall be served at AMD, Spencroft Road, Holditch Industrial Estate, Chesterton, Newcastle, Staffs. ST5 9JB, or such other address as notified from time to time.