

TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

Buyer: the person, firm, or company who purchases the Goods from the Seller. **Conditions:** these terms and conditions as amended from time to time in accordance with clause 16.8.

Contract: the contract between the Seller and the Buyer for the supply of Goods and services (where applicable) in accordance with these Conditions.

Contract Price: the price of the Goods invoiced by the Seller to the Buyer in accordance with clause 9.3.

Force Majeure Event: has the meaning given to it in clause 16.1.

Goods: the goods (or any part of them) set out in the Order.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Non Stock: Goods which are not standard and available on the Seller's website, or Goods which have special dimensions, colour or performance or are specific to the Buyer's specification and any goods that do not form part of the seller's standard stock range. For the avoidance of doubt these items will be denoted as non-stock on the paperwork.

Order: the Buyer's order for the supply of Goods, as set out in the Buyer's purchase order form, through a website order, or the Buyer's written acceptance of the Seller's quotation, as the case may be.

Seller: SK Sales Limited., its successors or assigns.

Website: www.sksales.co.uk

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Buyer to purchase Goods in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Seller issues written acceptance of the Order at which point and on which date the Contract shall come into existence.

2.3 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract.

2.4 Any samples, drawings, descriptive matter or advertising issued by the Seller and any descriptions of the Goods contained in the Seller's catalogues, brochures and/or the Website 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 nor have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any quotation given by the Seller shall not constitute an offer, and shall be for the current price and strictly limited to the type and quantity of Goods as stated in the quotation.

2.7 The Buyer acknowledges that Orders placed through the Website will be subject to confirmation from the Seller. The stock indications and prices displayed on the Website are an indication only and do not bind the Seller in any way.

2.8 It is the Buyer's obligation to ensure that the terms of its Order and any applicable specification are complete and accurate.

2.9 The Buyer can only cancel an Order (or any part of an Order) which the Seller has already accepted, with the Seller's prior agreement in writing.

3. GOODS

3.1 The Goods are described in the Seller's catalogue and/or Website as modified by any applicable specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Buyer or are considered Non Stock, the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Seller's use of the specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing.

3.4 The Buyer is entirely responsible for satisfying itself that the Goods are fit for the intended use either by relying on their own expertise or by obtaining professional advice.

3.5 The Seller reserves the right to amend the specification if required by any applicable law. Dimensions and other physical properties of the Goods are subject to reasonable manufacturing tolerances.

4. DELIVERY OF GOODS

4.1 The Seller shall ensure that: (a) each delivery of the Goods is accompanied by a delivery note; and (b) if the Seller requires the Buyer to return any packaging material to the Seller, that fact is clearly stated on the delivery note. The Buyer shall make any such packaging materials available for collection at such times as the Seller shall reasonably request. Returns of packaging materials shall be at the Seller's expense.

4.2 The Seller shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("Delivery Location") in writing. Delivery shall be as near as possible to the Delivery Location, where the Seller believes that such place is suitable for unloading during the normal working hours of the Seller on a Business Day.

4.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location. The Buyer shall be solely responsible for the unloading of the Goods and the Seller shall not be liable for any damage that occurs during such unloading. In the event that the same exceeds a period of one hour then demurrage may be charged by the Seller to the Buyer.

4.4 Where the Goods are collected by the Buyer then delivery of the Goods shall be completed upon completion of the loading of the Goods. The Seller shall not be liable for any damage that occurs during the loading of the Goods.

4.5 The Buyer will be deemed to have accepted the Goods as being in accordance with the Contract unless within 7 days of the date of delivery of the Goods, the Buyer notifies the Seller in writing of any defect or other failure of the Goods to conform with the Contract (which would be apparent on reasonable inspection and testing of the Goods within 7 days) failing which the Buyer shall not be entitled to reject the Goods and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

4.6 Any claims by the Buyer in respect of alleged shortage or damage or loss in transit must be notified to the Seller within 24 hours of delivery and confirmed in writing within three days of delivery taking place. Any evident damage to external packaging must be the subject of an endorsement by the Buyer on the Seller's delivery note at the time of delivery. No claim can be made by the Buyer under this clause if an acceptance note relating to the Goods has been signed by the Buyer or his agent or employee without reference to the alleged damage, shortage or loss in transit.

4.7 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.8 If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

4.9 If the Buyer fails to accept or take delivery of the Goods when they are ready for delivery: (a) the Goods shall be deemed to have been delivered, risk passing to the Buyer (including for loss or damage caused by the Seller's negligence); and (b) the Seller shall store the Goods until delivery takes place, and charge the Buyer on an indemnity basis for all related costs and expenses (including insurance).

4.10 If 28 days after the Seller notified the Buyer that the Goods were ready for delivery the Buyer has not accepted or taken delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods and where such goods are deemed Non Stock or made to the Buyer's specification, the Buyer will be liable for the full cost of the Goods.

4.11 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

5. QUALITY OF GOODS

5.1 The Seller warrants that on delivery, and for a period of 12 months from the date of delivery ("Warranty Period"), the Goods shall: (a) be as described in the Seller's catalogue or in any specification as appropriate; (b) be free from material defects in design, material and workmanship; and (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

5.2 Subject to clause 5.3 if: (a) the Buyer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1; (b) the Seller is given a reasonable opportunity to examine such Goods; and (c) the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, then the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods to the Buyer in full.

5.3 The Seller shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if: (a) the Buyer makes any further use of such Goods after giving a notice in accordance with clause 5.2; (b) the defect arises because the Buyer failed to follow the manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; (c) the defect arises as a result of the Seller following any drawing, design or specification supplied by the Buyer; (d) the

Buyer alters or repairs such Goods without the written consent of the Seller; (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; (f) the Goods differ from the specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards; or (g) the Buyer has not paid in full for the Goods.

5.4 Except as provided in this clause 5, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller under clause 5.2.

6. RETURNS AND CANCELLATIONS

6.1 The Seller will not accept Order cancellations unless the Order is for items held in their central stock. Any items which are Non Stock are non-refundable.

6.2 Goods returned at the Buyer's request and which are not transported on the Seller's own vehicle shall be at the Buyer's risk regarding insurance for a value not less than the full invoice price.

6.3 Subject to clause 5, Goods specifically ordered to the Buyer's specification or any Non Stock items are not returnable and cannot be exchanged.

6.4 Where refrigerant or compressed gas products are sold, empty cylinders should be returned within the specified time period otherwise the deposit will be retained or they will be subject to a lost cylinder charge.

6.5 The costs of collection and re-delivery of replacement items will be met by the Buyer unless the re-delivery or replacement is attributable to the negligence of the Seller. Only Goods returned in saleable condition can be accepted for credit. The Seller reserves the right to levy a re-stocking and handling charge. All returns must be sanctioned by the Seller prior to Goods being returned.

7. TITLE AND RISK

7.1 The Goods shall be at the risk of the Buyer from the time of delivery or where the Goods are collected by the Buyer (or its agents) when the employees or agents of the Seller have completed loading the Goods.

7.2 Title to the Goods shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for: (a) the Goods; and (b) any other goods that the Seller has supplied to the Buyer.

7.3 Until title to the Goods has passed to the Buyer, the Buyer shall: (a) hold the Goods on a fiduciary basis as the Seller's bailee; (b) store the Goods at its premises in a proper manner in conditions which adequately protect and preserve the Goods and shall insure them, without any charge to the Seller and not to tamper with any identification upon the Goods or their packaging and shall ensure that they are stored separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property; (c) the Seller may at any time, on demand and without prior notice, require the Buyer to deliver the Goods up to the Seller and the Seller may repossess and resell the Goods if any of the events in clause 12.1 occurs or if any sum due to the Seller from the Buyer under the Contract or on any other account or under any other contract is not paid when due; (d) the Buyer shall ensure the Seller, its employees, agents and sub-contractors shall be entitled to free and unrestricted access to any premises owned, occupied or controlled by the Buyer and/or any other location where any of the Goods are situated at any time without prior notice; and (e) the Seller shall be entitled to maintain an action against the Buyer for the price of the Goods notwithstanding that legal, equitable and beneficial title to and property in the Goods has not passed to the Buyer, but the Buyer may resell or use the Goods in the ordinary course of its business unless an event set out in clause 12.1 occurs or the Seller terminates the Contract or if any sum owed to the Seller by the Buyer is not paid when due. At the Seller's request, the Buyer shall assign to the Supplier all claims that the Seller may have against purchasers of the Goods from the Buyer. If the Buyer sells the Goods prior to paying the full price for them under the Contract to the Seller the Buyer shall hold the proceeds of the sale in a separate bank account,

7.4 Where the Goods are refrigerant or compressed gas products, title of the cylinder used for the containment shall pass to the Buyer when the deposit is claimed by the Seller or when the Buyer makes payment for the Seller's lost cylinder charge.

7.5 The Seller's rights and remedies set out in this clause 7 are in addition to and shall not in any way prejudice, limit or restrict any of the Supplier's other rights or remedies under the Contract or in law or equity.

8. BUYER'S OBLIGATIONS

8.1 The Buyer shall: (a) ensure that the terms of the Order and any specification are complete and accurate; and (b) in the event that the Goods do not accord with the Order, the Buyer must notify the Seller within 24 hours from the date of delivery and be followed up and confirmed in writing to the Seller within 7 days, failing which the Buyer will be deemed to have accepted the Goods.

9. CHARGES AND PAYMENT

9.1 The Contract Price for Goods shall be the price set out in the Order or, if no price is quoted, the price set out in the Seller's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods which shall be paid by the Buyer when it pays for the Goods.

9.2 The Seller reserves the right to increase the Contract Price of the Goods by giving notice to the Buyer at any time before delivery, to reflect any increase in the cost of the Goods to the Seller that is due to: (a) any factor beyond the control of the Seller (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); (b) any request by the Buyer to change the delivery date(s), the number

of deliveries, quantities or types of Goods ordered, or any specification; or (c) any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give the Seller adequate or accurate information or instructions in respect of the Goods or the Delivery Location.

9.3 The Seller shall invoice the Buyer on or at any time after completion of delivery of the Goods.

9.4 The Buyer shall pay each invoice submitted by the Seller: (a) within 30 days or the assigned due date of the invoice; and (b) in full and in cleared funds to a bank account nominated in writing by the Seller unless otherwise agreed with the Seller.

9.5 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Seller to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.

9.6 Without limiting any other right or remedy of the Seller, if the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment ("Due Date"), the Seller shall have the right to charge interest on the overdue amount at the statutory interest rate (under the Late Payment of Commercial Debts (interest) Act 1998) from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment.

9.7 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may, without limiting its other rights or remedies, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

9.8 Non-payment by the Buyer within 14 days of the Due Date shall entitle the Seller to demand payment of all outstanding balances under the Contract or any other contract between the parties and to cancel forthwith any outstanding orders and credit facilities without prejudice to all other rights the Seller may have.

9.9 If full payment is not made according to our invoice terms, then the seller reserves the right to pass collection to our third-party debt recovery specialists, where a charge of 15% plus vat will be incurred on the unpaid amount payable by the buyer. Additionally, statutory interest will also be applied to the unpaid amount.

9.10 The Buyer must pay to the Seller all and any reasonable expenses and legal costs incurred by the Seller in taking any steps, including Court action, to enforce the Buyer's obligations under the Contract for the payment of any monies owed by the Buyer to the Seller.

16. GENERAL

16.1 Force majeure:

- (a) For the purposes of this Contract, "Force Majeure Event" means an event beyond the reasonable control of the Seller including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, pandemic or epidemic or by any failure of the Seller's subcontractors to supply the Seller.
- (b) The Seller shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Seller from providing any of the Goods for more than 14 days, the Seller shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Buyer.

16.2 Assignment and subcontracting:

- (a) The Seller may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- (b) The Buyer shall not, without the prior written consent of the Seller, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.3 Data and Data Protection:

- (a) The Seller may use any information that the Buyer has provided to the Seller to enable a search to be made with credit reference agencies to assess the creditworthiness of the Buyer and to search against any personal credit records of all directors and/or proprietors of the Buyer (in respect of which the Buyer confirms that all necessary consents from the individuals have been obtained) where the Buyer has sought or has entered into credit terms with the Seller. Such searches may include a search against current or previous addresses in the last three years.
- (b) For the purposes of credit referencing, fraud prevention and any money laundering regulations that may apply, the Seller may share the account information and trade history with other lenders and credit reference agencies. The Seller may from time to time review the account of the Buyer, and further searches of credit reference agencies and/or personal credit record searches may be undertaken by the Seller.
- (c) Under the Data Protection Act 2018 and the UK retained General Data Protection Regulations those individuals referred to at clause 16.3(a) above have the right to apply for a copy of the information about them held by the Seller and have the right to correct any inaccuracies in any such information held by contacting generalenquiries@sksales.co.uk.

16.4 Waiver and cumulative remedies:

- (a) A waiver of any right under the Contract 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 Seller 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 preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

16.5 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

16.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

16.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the parties.

16.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

10. CONFIDENTIAL INFORMATION

Neither party shall during and after termination of this Contract, without the prior written consent of the other party use or disclose to any other party any information of the other party which is identified as confidential or which is confidential by its nature. This clause 10 shall survive termination of the Contract.

11. LIMITATION OF LIABILITY: THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

11.1 Nothing in these Conditions shall limit or exclude the Seller's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or (e) defective products under the Consumer Protection Act 1987.

11.2 Subject to clause 11.1: (a) the Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and (b) the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Contract Price.

11.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.4 This clause 11 shall survive termination of the Contract.

12. TERMINATION

12.1 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the other party if: (a) the Buyer fails to pay any sum payable under this Contract within 14 days of its due date; (b) the Buyer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 10 days after receipt of notice in writing requiring remedy of the breach; (c) any distress or execution is levied upon any assets of the Buyer; (d) a winding up petition is filed in relation to the Buyer, or where the Buyer is an individual, they become subject to a bankruptcy petition or order; (e) the Buyer makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a Court of competent jurisdiction for protection from its creditors or an administration or winding up order is made or an administrator or receiver is appointed in relation to the Buyer; (f) the financial position of the Buyer deteriorates to such an extent that in the opinion of the Seller the capability of the Buyer adequately to fulfil its obligations in accordance with the Contract has been placed in jeopardy; (g) the Buyer suspends, or threatens to suspend, payment of its debts and/or threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or (h) calls a meeting, gives a notice, passes a resolution, makes an application or files documents, or an order is

made, or any other steps are taken in respect of obtaining a moratorium or a moratorium is obtained for the Buyer.

12.2 Without limiting its other rights or remedies, the Seller shall have the right to suspend all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if: (a) the Buyer fails to pay any amount due under this Contract within 14 days of the Due Date; or (b) the Buyer becomes subject to any of the events listed in clause 12.1, or the Seller reasonably believes that the Buyer is about to become subject to any of them.

13. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason: (a) the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest (calculated in accordance with clause 9.5); (b) the accrued rights and remedies of the Seller as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

14. COMPLIANCE

The Buyer acknowledges and is aware that an Order is subject to compliance with Air Vance policies at <http://www.airvancegroup.com/index.php/mentions-legales/?lang=en>.

15. WEBSITE DISCLAIMER

15.1 It is the Buyer's responsibility to determine whether the Goods on the Website meet the needs of the Buyer.

15.2 The Seller does not warrant or represent that any particular results or outcomes will be achieved through use of the Website.

15.3 The Seller can accept no responsibility or liability whatsoever, for any claims, costs, losses, expenses or damages howsoever arising whether direct, indirect or consequential in respect of any omissions or consequences of actions taken by the Buyer based on any information, opinions or advice contained within the Website.