

**AMTEC LIMITED**  
HEREINAFTER CALLED THE COMPANY  
STANDARD CONDITIONS OF SALE

**1. DEFINITIONS**

1.1. In these terms and conditions, the following words shall have the following meanings:-

"the Company" means Amtec Limited.

"the Goods" means the products articles or things which are manufactured, delivered or installed by the Company

"the Buyer" means the corporate entity firm or person referred to in any order addressed to the Company

"the Premises" are any premises (of the Buyer) at which the Goods are to be or have been delivered assembled or installed by the Company

1.2 The Buyer shall be deemed to have become insolvent if:-

(a) being a Company it has a petition presented for its winding-up or passes a resolution for voluntary winding-up otherwise than for the purpose of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver appointed of all or any part of its assets or,

(b) being an individual it becomes bankrupt or insolvent or enters into any arrangement with his creditors or takes or suffers any similar action in consequence of debts or carried out or,

(c) undergoes any analogous act or proceeding under foreign law

**2. MAKING THE CONTRACT**

2.1 Employees, other than Directors of the Company, are not authorised representatives and are not authorised to accept confirm or vary any order or to make any representation or promise on the behalf of the Company

2.2 The estimate or quotation comprises an invitation to treat and shall be deemed to be withdrawn if not accepted in writing within thirty days from its date unless the Company has previously withdrawn it. Any order issued by the Buyer is subject to acceptance by the Company and a contract will only be formed when the Company has accepted the Buyer's offer to buy in writing. Any offer made by the Buyer orally must be confirmed in writing by the Buyer

2.3 All orders are placed under these terms and conditions alone and acceptance by the Company of any order from the Buyer shall be deemed to incorporate these conditions.

2.4 Except insofar as statute may require these terms and conditions exclude any other terms and conditions inconsistent with them which a Buyer might seek to impose, even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms or conditions inconsistent with them or may be contained in any offer acceptance or counter-offer made by the Buyer.

2.5 No variation of these terms and conditions and no other terms or conditions whatsoever shall have any force or effect whether as part of or as collateral to the contract except insofar as the Company has expressly agreed thereto in writing signed by a Director of the Company.

**3. CANCELLATION**

3.1 No cancellation by the Buyer is permitted except where expressly agreed by the Company in writing signed by a Director.

3.2 The Buyer will in the event of an agreed cancellation by the Buyer indemnify the Company fully against all expenses incurred up to the time of such cancellation and any consequential increase in price of any Goods already delivered together with any liquidated damages and a sum equal to twenty five per cent (25%) of the contract price, which shall be paid by the Buyer to the Company forthwith.

3.3 In the event of agreed cancellation the Company may dismantle and remove any Goods already supplied or installed but shall not be under any obligation to return the Premises to the condition in which

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they were prior to the commencement of any installation or delivery of any Goods

3.4 If the Company shall be unable to supply any goods by reason of a third party ceasing to produce or to accept orders from the Company for goods of that description or specification, the Company may give notice thereof to the Buyer whereupon the Buyer may within ten days of receipt of such notice give notice to the Company requiring that the Contract shall be amended by substituting in place of the goods which the Company is unable to supply and the prices and delivery dates relating thereto a like or smaller quantity of goods of a comparable description or specification then currently produced by the third party and for which that third party will accept orders from the Company at such prices as are then currently quoted by the Company for substituted goods. If the Buyer shall within the time specified give such notice as aforesaid, the Contract shall be treated as amended accordingly and shall continue in full force and effect as so amended. If the Buyer shall fail, within the time specified, to give such notice there shall be deleted from the Contract all reference to the goods which the Company cannot supply and to the prices which relate thereto and the Contract shall be treated as null and void insofar as it relates to those goods but shall remain in full force and effect insofar as it relates to other goods

**4. PRICE**

4.1 All prices quoted are those ruling at the date of despatch

4.2 Unless otherwise stated all prices quoted are net ex works exclusive of VAT and carriage and packaging

4.3 The Company may adjust the price to take account of any increase in the cost of raw materials, labour or services or any currency fluctuations affecting the cost of imported materials at any time prior to delivery of the Goods or any part of them

**5. TERMS OF PAYMENT**

5.1 All sums become due and payable under these terms and conditions not later than thirty days from the invoice date in the case of approved credit accounts. In other cases all sums become due and payable on demand unless the Directors have authorised in writing, a period within which payments must be made.

5.2 Time for payment shall be of the essence.

5.3 The Company may charge interest at the rate of three per cent above the current Bank of England base rate, on all overdue accounts, interest accruing on a day to day basis from the due date for payment under clause 5.1. Overdue accounts and interest must be paid in one installment only unless the Directors have agreed otherwise.

5.4 The Buyer shall not be entitled by reason of any dispute relating to the goods or any claim made by the Buyer under this or any other contract to withhold payment of any amount which is due to the Company hereunder or to set off against any such amount or payment any counter claim whether liquidated or unliquidated for any sum.

5.5 If the Buyer becomes insolvent or commits a material or serious breach of this Agreement (and in the case of such a breach being remediable fails to remedy it within seven days of receiving notice to do so), he will be deemed to have repudiated the Contract.

5.6 The Company may, in its absolute discretion, demand security for payment or invoice for a percentage of the value, which invoice must be settled in full, before continuing with or delivering any Order.

5.7 If the Buyer shall fail to pay any amount payable hereunder when it is due or if the Buyer shall refuse or fail to accept the delivery of goods or permit the installation thereof or to give delivery instruction in relation to any goods when they are ready for collection or despatch or if the Buyer shall become

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insolvent then the purchase price of all goods invoiced or delivered or installed by the Company or otherwise in the possession of or at the disposal of the Buyer shall become forthwith due and payable by the Buyer and the Company shall further be entitled at the Company's option to treat as cancelled all future obligations to be performed by the Company under the Contract and/or any other contract made between the Buyer and the Company or to suspend the delivery or installation of Goods hereunder without prejudice to any other rights of the Company

**6. INSTALLATION**

6.1 Installation is effected when the installation of the Goods is substantially completed and the Goods are reasonably ready and capable of being used for their usual use although there may be minor work or defects on the Goods which is uncompleted or unrectified

6.2 Time of installation is not of the essence.

6.3 The Company is not liable for any loss whatsoever or howsoever arising caused by its non-delivery or by the failure to complete installation of Goods on the due date.

6.4 The Company may make installation or delivery by installments and tender a separate invoice or application for payment in respect of each installment.

6.5 When installation or delivery is to be by installments or the Company exercises its right to deliver by installments under clause 6.4 each installment shall be treated as a separate contract and if there is delay in the delivery or installation of any one or more installments for whatever reason the Buyer may not cancel the contract.

6.6 Deviations in quantity, quality or description of the Goods delivered or installed (representing not more than ten per cent by value) from that stated in these terms and conditions shall not give the Buyer any right to reject the Goods or to claim damages and the Buyer must accept and pay at the contract rate for the quantity of the Goods delivered.

6.7 If the Company is obliged to substitute Goods or make deviations in quantity, quality or description of over ten per cent in value the Company shall give seven days written notice of such deviations to the Buyer. Unless the Buyer shall within seven days of receipt of such notice give written notice of rejection of such Goods the Buyer shall be deemed to accept the Goods and shall not be entitled to repudiate the contract or claim damages

6.8 Where drawings specifications and materials are to be supplied the Buyer shall supply them in reasonable time to enable the Company to despatch within the period named.

6.9 The Buyer grants to the Company its agents and employees full licence to enter pass over and remain on:-

- (a) the premises at any time for any purpose including (without prejudice to the generality of the foregoing) delivery installation maintenance dismantling and removal of the Goods and
- (b) any other land owned or occupied by the Buyer at any time for which such licence may be necessary to gain access to the Premises

6.10 Such licence to enter onto and remain on the Premises shall subsist until such time as the installation of the Goods is completed and payment has been received by the Company for the Goods with no amounts then being outstanding from the Buyer to the Company in respect of other goods or services supplied by the Company and no purported revocation of such licence by the Buyer shall take effect until such time

**7. RISK AND THE RETENTION OF TITLE**

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7.1 Risk in the Goods passes to the Buyer when the Goods are delivered to, or collected by, the Buyer or its agent.

7.2 The title in the Goods shall not pass to the Buyer, but shall remain vested in the Company, until full payment has been made of all sums payable to the Company in respect of those Goods, whether held in their original state, processed or converted into alternate goods, whether or not they have subsequently been sold to sub buyers.

7.3 If the Buyer shall make default in the punctual payment of any sum due to the Company (whether payable under this Contract or otherwise) or if a Buyer becomes insolvent then the Company may forthwith re-possess any Goods which are or remain the property of the Company (whether supplied under this or any other contract) and the Buyer shall cease to be in possession of such Goods with the consent of the Company and shall do all things necessary and within its power to restore the possession of such Goods to the Company and for the purpose of re-taking possession of such Goods and the Buyer hereby grants the Company permission absolute to enter upon any premises and unfix or detach such Goods from any other goods or objects to which they may be attached.

7.4 Until the price of the Goods has been paid in full, the Buyer shall store, mark or designate the same so as to clearly show that they are the property of the Company

7.5 The Buyer shall not deal with the Goods in any way otherwise than in the normal course of the Buyer's business and until such time as payment in full has been made of all sums payable in respect of the Goods the Buyer may not sell or otherwise deal in or transfer any title in the Goods except on the condition of that as between the Buyer and the Company, the Buyer shall be deemed to be acting as the Agent of the Company but nothing herein shall be so construed as to create privity of contract between the Company and any person or entity other than the original Buyer

7.6 In the event of any sale or disposition of any of the Goods by the Buyer where the goods have not been mixed with or incorporated in, or attached to other goods, the Buyer shall hold the proceeds of the sale or disposition on trust for the Company, and the Buyer shall place such monies in a separate account so as to be identifiable as the monies of the Company

7.7 The Company may appropriate any payment made by the Buyer in respect of any Goods in settlement of any invoices or accounts and any purported appropriation to the contrary by the Buyer shall be ineffective.

7.8 The Buyer shall insure and be responsible for the safe keeping of all installations plant and equipment of the Company brought on to or left at the Premises for the purposes of the contract whilst the same remain on the Premises

## **8. INFRINGEMENT OF PATENTS OR REGISTERED DESIGNS**

8.1 The Buyer shall indemnify the Company against all damages penalties costs and expenses to which the Company may become liable as a result of work done in accordance with the Buyer's specification which involves infringement or alleged infringement of a patent or registered design.

## **9. LIEN AND STOPPAGE**

9.1 Until title in the Goods has passed to the Buyer the Company may withhold delivery if the Buyer becomes insolvent

9.2 When the title in the Goods has passed to the Buyer and the time for payment has fallen due but payment has not been made or if the Buyer becomes insolvent then the Company has:-

9.2.1 a lien on the Goods as long as the Company is in possession of them

9.2.2 a right of stoppage in transit

9.2.3 a right of resale

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9.3 For the avoidance of doubt it is agreed that nothing in this clause shall affect the rights given to the Company by sections 38-48 of the Sale of Goods Act 1979

**10. INSPECTION/SHORTAGES**

10.1 The Buyer must promptly inspect the Goods on delivery or installation.

10.2 If testing and inspection is specified by the Buyer this shall take place at the Company's premises and shall be final

10.3 The Company is under no liability for any defects or shortages that would be apparent on careful inspection if the terms of this clause are not complied with, and, in any event is under no liability if a written complaint is not delivered to the Company within seven days of delivery detailing the alleged defect or shortage

10.4 The Company is under no liability where defects or shortages are complained of unless a written complaint is delivered to the Company within seven days of their installation and before any use is made of them or any alteration or modification is made to them by the Buyer

10.5 Subject to clause 10.3 and clause 10.4, the Company shall make good any shortage in the Goods and where appropriate replace any Goods damaged in transit as soon as it is reasonably able to do so, but otherwise is under no liability whatsoever or howsoever arising for such shortage or damage

**11. WARRANTY**

11.1 The Company warrants that it has title to and the unencumbered right to sell the Goods

11.2 Descriptions or illustrations in any trade literature, documents, catalogues or correspondence shall be treated as showing type, class and general character only and not as importing terms or warranties as to substance, performance, colour, quality or dimension and failure of any Goods to comply with such samples, descriptions or illustrations shall not constitute any breach of contract by the Company

11.3 The Goods are sold on the terms that they comply with the written terms and descriptions contained in the Contract provided that delivery dates do not form part of the description.

11.4 Except where the Company and the Buyer have otherwise expressly agreed in writing, the Buyer is deemed to have satisfied itself as to the suitability of the Goods for the purpose for which the Buyer requires them and the Buyer so warrants to the Company

11.5 Where any Goods supplied by the Company are made by or supplied to the Company by any third party, the Goods are sold with the benefit of the conditions of sale and warranty of that third party and the Company will use its best endeavours to ensure that the benefit thereof shall pass to the Buyer. The Buyer is given express notice that such warranty may cease or vary if the Goods are exported or used outside the United Kingdom. In addition some Goods supplied by the Company are delivered and incorporated into Goods supplied prior to ultimate delivery to the Buyer. The Buyer acknowledges that any manufacturers guarantee commences on the date of supply to the Company.

11.6 Save insofar as statute may require, no terms, warranties or conditions whatsoever as to the quality or fitness for any purpose of the Goods other than those hereinbefore set out are included or to be implied in the Contract and all such terms, warranties and conditions are hereby expressly excluded

**12. LIABILITY**

12.1 Introduction

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12.1.1. Nothing in clause 12 excludes or restricts the Company's liability for death or personal injury resulting from negligence

12.1.2. Each of the sub-clauses in clause 12 is separate and independent

12.1.3. The Company is willing to undertake liability additional to that provided by this clause in exchange for a higher price such additional liability to be confirmed by the Directors in writing.

12.2 Exclusion

12.2.1. Clause 12.2 only covers defects caused by faulty design, manufacture, materials or workmanship. It does not cover defects caused by abnormal use, misuse or neglect

12.2.2. The Company agrees that if any defect covered by Clause 12.2 is discovered during the period of six months commencing with the date of despatch, the Company will either repair the goods at its own expense or, if it chooses to do so, replace them provided that the goods are returned carriage paid to the Company.

12.2.3. The Buyer cannot claim the benefit of this clause unless he informs the Company of the relevant defect in writing within seven working days of discovering it

12.2.4. The Buyer can claim the benefit of this Clause only if no amounts are outstanding from the Buyer to the Company and all payments were made in full on the due dates.

12.2.5. The Buyer can claim the benefit of this Clause only if the Goods are maintained by the Buyer in accordance with any requirements of the Company or the manufacturers of those Goods

12.2.6. The risk of accidental loss whilst the Goods are being returned will be borne by the Buyer

12.2.7. In consideration for receiving the benefit of this clause, the Buyer agrees that, apart from those terms set out in Clause 12 no other terms, whether condition, warranties or in nominate terms, express or implied, statutory or otherwise, shall form part of this contract except where the Buyer deals as consumer within section 12 of the Unfair Contract Terms Act 1977 when the terms implied by sections 13, 14 and 15 of the Sale of Goods Act 1979 shall be implied into the contract

12.3. Exclusion of consequential loss

The Company shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss arises from breach of a duty in contract or tort or in any other way (including loss arising from the Company's negligence). Non-exhaustive illustrations of consequential or indirect loss include loss of profits, loss of contracts, damage to property of the Buyer or anyone else, and personal injury to the Buyer or anyone else (except so far as such injury is attributable to the Company's negligence)

12.4 Limitation

The Company's total liability for any one claim or for the total of all claims arising from any one act or default of the Company (whether arising from the Company's negligence or otherwise) shall not exceed ONE HUNDRED THOUSAND POUNDS (£100,000.00) or the contract price whichever is the lower.

**13. FORCE MAJEURE**

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13.1 The Company shall not be liable for any failure to install or deliver the goods arising from circumstances outside the Company's control

13.2 Non-exhaustive illustrations of such circumstances include act of God, war, riot, explosion, abnormal weather conditions, fire, flood, strikes, lockouts, Government action or regulations (U.K or otherwise), delay by suppliers, accidents and shortage of materials, labour or manufacturing facilities

13.3 Should the Company be prevented from delivering in the above circumstances, it shall give the Buyer written notice of this fact as soon as reasonably practicable after discovering it

13.4 If the circumstances preventing delivery are still continuing three months after the Buyer received the Company's notice then either party may give written notice to the other cancelling the contract

13.5 If the contract is cancelled in this way, the Company will refund any payment which the Buyer has already made on account of the price (subject to deduction of any amount the Company is entitled to claim from the Buyer) but the Company will not be liable to compensate the Buyer for any further loss or damage caused by the failure to deliver

**14. NOTICES**

Any notice required shall be in writing and shall be deemed to be duly given if sent or delivered to the party concerned at its address specified on order or such other address as that party may from time to time notify in writing. In the case of post it shall be deemed to be served 48 hours after posting, if delivered upon placing the notice on or in the receiving parties' premises or property.

**15. ASSIGNMENT**

The Buyer may not assign or transfer or purport to assign or transfer the contract or the benefits of it to any other person without the prior written consent of the company. The Company may transfer or assign its rights under the contract at any time without notice.

**16. EXCLUSION OF TERMS AND CONDITIONS**

If any part or parts of these Terms and Conditions are excluded, or are deemed unenforceable due to any statutory act, then the rest of these Terms and Conditions shall continue in full force as if the excluded Terms and Conditions had never been included

**17. PROPER LAW AND JURISDICTION**

The contract shall be governed by and construed in accordance with English Law and all disputes arising in connection with the contract shall be submitted to the jurisdiction of the English Courts

**18. HEADINGS**

The headings of these conditions are for convenience only and shall have no effect on their interpretation

AMTec Limited  
November 2008