



COUTANT LAMBDA LIMITED

CONDITIONS OF SALES

GENERAL

- 1.0 ALL PRODUCTS ARE SOLD AND SERVICES SUPPLIED SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS WHICH SHALL PREVAIL TO THE EXCLUSION OF ALL TERMS AND CONDITIONS WHATSOEVER UNLESS AND TO THE EXTENT OTHERWISE EXPRESSLY AGREED IN WRITING BY OUR AUTHORISED REPRESENTATIVE. The giving of any delivery instruction, the acceptance of or payment for any products or any other act or conduct by the Purchaser after receipt of this document which is consistent with the Purchaser's confirmation of the relevant transaction shall constitute unqualified acceptance by the Purchaser of the terms and conditions as specified herein.
- 1.01 Where the Purchaser or any other company which is a member of the group of Companies the Purchaser is also a member whether as a Holding Company or a subsidiary of a common Holding Company then any breach of any Contract between us and the Purchaser or between us and such other Company shall entitle us at our option either:
- a) To suspend this Contract until such breach has been remedied or,
 - b) Terminate this Contract forthwith and in either case sue for any damages and costs incurred by us before the date of such termination.
- 1.02 Unless previously agreed in writing by our Authorised Representative no verbal, written or other addition hereto or variation or waiver hereof shall be effective.
- 1.03 Our employees or agents are not authorised to make any representation concerning our products unless confirmed in writing by an Authorised Representative. In entering into the contract the Purchaser acknowledges that no reliance has been placed upon and waives any claim for breach of any such representations which are not so confirmed.

VALIDITY

- 2.0 Quotations and offers are open for acceptance within thirty days only from the date hereof and are subject to our written confirmation of such acceptance. The right is reserved to withdraw any quotation or offer within the said period of thirty days either verbally or in writing and no liability whatsoever shall be incurred by such withdrawal.

PRICE

- 3.0 Prices are quoted in Sterling unless otherwise stated and are exclusive of sales Tax (including but not exclusively VAT, TVA or MWST) and are based on raw materials and labour costs current at the date of Contract and if, before delivery of all the products, there occurs any increase in any way of such

costs we shall be entitled to increase the price payable in respect of products which have not been delivered to account for such variations.

- 3.01 We shall also be entitled to increase such price in the event of the quoted price being incorrect due to any error or omissions on our part or on the part of our servants or agents. For the purposes of this Sub-Clause a quoted price is incorrect when the price quoted for the product is less than the price of that product shown in the price list current at the date that the quotation was given or where the price quoted for the product is, on the face of it, clearly too low.

PASSING OF PROPERTY

- 4.0 The property in the products shall remain in us until the products have been delivered and the total price thereof and any other payments due to us from the Purchaser in respect thereof have been made. If payment of the total price or other sums is not made on the due date we shall have the right with or without prior notice at any time to retake possession of the whole or part of the products (and for that purpose to go upon any premises occupied by the Purchaser thereof) without prejudice to any of our other remedies.

TRANSFER OF RISK AND INSURANCE

- 5.0 The risk in the products shall pass to the Purchaser as follows;
- 5.01 Where products are to be delivered by us or our carrier to an address in the United Kingdom designated for delivery thereof to the purchaser, the risk will pass when the goods have been so delivered.
- 5.02 Where products are to be collected by the Purchaser, the risk will pass when the products have been loaded on to the transport of the purchaser, of his carrier or, if the Purchaser fails to collect the products within a period of fourteen days after we have given the Purchaser written notice that the products are ready for delivery and collection, risk will pass at the expiry of such period.
- 5.03 For shipments to destinations outside the U.K. when the products have been delivered in accordance with the stated terms of trade.

ACCEPTANCE OF ORDER

- 6.0 The Purchaser's order must be accompanied by all information necessary to enable us to proceed with the execution thereof. We shall not proceed to execute the order until such information is given to us and any dates for delivery shall be extended by such period as is reasonable in all the circumstances to take account of the Purchaser's delay.
- 6.01 In the event that the Purchaser shall fail to provide any required information within 7 days of its being requested such failure shall be a breach of contract by the Purchaser giving rise to a right on our part:
- a) To lawfully terminate the contract and/or
 - b) To sue for damages and costs incurred by us prior to the date of termination

INSTALMENTS AND PART DELIVERIES

- 7.0 In the case of a contract for delivery of products by instalments EVERY INSTALMENT SHALL BE DEEMED TO BE THE SUBJECT MATTER OF A SEPARATE CONTRACT, and, unless otherwise agreed in writing, by our authorised representative, failure in delivery of any one or more of the said instalments shall not, subject to the other provision of these conditions, entitle the Purchaser to treat such failure as a repudiation of the whole contract.
- 7.01 Where an order is in respect of a number of products (whether the same or different), we reserve the right to deliver all or any reasonable number thereof as soon as they are completed at our works or (where the products are to be collected by the Purchaser) we shall notify the Purchaser that all or any reasonable number of the products are ready for collection, the Purchaser shall accept such deliveries or make such collections and honour all demands for payment in respect thereof in accordance with the terms of payment set out herein.

DAMAGE OR LOSS IN TRANSIT

- 8.0 Where the transport of products to be delivered to the purchaser is to be effected by us or our carrier THE PRODUCTS MUST BE EXAMINED BY THE PURCHASER ON RECEIPT AND THE PURCHASER MUST NOTIFY US PROMPTLY IF SUCH PRODUCTS ARE RECEIVED IN A DAMAGED CONDITION OR THEY ARE NOT RECEIVED ON THE DUE DATE FOR DELIVERY THEREOF. THE PURCHASER WILL INDEMNIFY US against any loss suffered by us as a result of any such notification being received too late to enable us to claim against carriers or insurers in respect thereof

ACCEPTANCE OF GOODS

- 9.0 Unless within ten days from date of receipt (or such longer period as agreed in writing by our authorised representative) we are notified in writing to the contrary products shall be deemed to have been accepted by the Purchaser.

TERMS OF PAYMENT

- 10.0 The terms of payment (unless otherwise agreed in writing by our authorised representative) are:
Deliveries in United Kingdom: Payment in full Sterling within 30 days from date of invoice.
- Export Shipments : Net cash payable in full by irrevocable documentary letters of credit (providing for part shipment) opened by the Purchaser with a bank in London to be approved by us and payable against delivery of the relevant bill of lading/airway bill in our favour covering the products. All prices quoted are the actual amounts payable to us free of all deductions whatsoever and are ex-works.
- 10.01 Stipulations as to time of payments shall be deemed to be of the essence of the contract.
- 10.02 If payment of the price or any part or instalment thereof is not made on the due date we shall be entitled to charge interest on the outstanding amount at the rate of 2½% per calendar month on a daily basis (and any other costs incurred in relation to the recovery of any sums outstanding shall be for the Purchaser's account).

- 10.03 Default by the Purchaser in making any payment on the date thereof will also entitle us to refuse to make delivery of any further products (whether ordered under the same contract as that under which the default was made or not) without thereby incurring any liability whatsoever to the Purchaser.
- 10.04 Where the Purchaser or any other Company which is a member of the group of Companies of which the Purchaser is also a member whether as Holding Company or a subsidiary of a common Holding Company then any failure by the Purchaser or such other Company strictly to observe the terms of payment of any other Contract between us and the Purchaser or between us and such other Company shall entitle us at our option:
- a) To suspend this Contract until payment has been made in full in accordance with the terms of that other Contract or
 - b) To terminate this Contract forthwith and in either case sue for any damages and costs incurred by us before the date of such termination.
- 10.05 No deduction shall be made by the Purchaser in respect of any set off or counter claim howsoever arising.

DELIVERY

- 11.0 Delivery shall mean 'delivery Ex Works' all packing, insurance, carriage, taxes and duties shall be for the Purchaser's accounts.
- 11.01 We shall make every endeavour to adhere to our delivery schedule. Such schedule is not, however, guaranteed or to be deemed to be of the essence of the Contract and we shall in no case be liable for any delay in delivery or any losses resulting directly or indirectly therefrom resulting from any cause beyond our reasonable control and any reasonable delay in delivery shall not be sufficient cause for cancellation by the Purchaser.
- 11.02 Where no date has been specified for delivery of any products to the Purchaser, he shall give us all necessary instructions and authorities and generally make all necessary arrangements so that delivery may take place within 14 days after we have notified the Purchaser that the products are ready for delivery.
- 11.03 Without prejudice to any other right which we may have in respect thereof if the Purchaser refuses or neglects to take delivery of any of the products on the date specified therefore, or when no date has been specified for delivery or, without fault on our part delivery has not been made within 14 days after a notification to the Purchaser under Conditions 7.01 or 11.02 above, the Purchaser shall pay our reasonable charges for storage of the products in question, such charges to accrue either from the date upon which the Purchaser refuses or neglects to take delivery or from the date of notification under the said Condition 7.01 or 11.02 whichever shall be the case.
- 11.04 If in any event the Purchaser unreasonably refuses or neglects to take delivery of any of the products within twenty eight days of either the date upon which delivery is tendered by us or of the date of notification under Conditions 7.01 or 11.02 above we reserve the right to sell the products elsewhere and to claim from the Purchaser any costs, losses or damages which we have incurred directly or indirectly as a result of the Purchaser's refusal or neglect to take delivery.

CANCELLATION AND INSOLVENCY

- 12.0 If there is any default or breach of any of the Purchaser's obligations here under or if any distress, execution or other legal process shall be levied upon or issued out against the Purchaser's property or if the Purchaser shall make or offer to make any arrangement of compositions with its creditors or commit any act of resolution or petition to wind up the Purchaser shall be passed or presented, or if a receiver of all or any of each and every such case WE SHALL HAVE THE RIGHT AT ANY TIME TO SUSPEND OR DETERMINE THE CONTRACT OR ANY UNFULFILLED PART THERE OF AND TO CANCEL ANY OUTSTANDING DELIVERY AND TO STOP ANY PRODUCTS IN TRANSIT AND, NOTWITHSTANDING ANY OTHER PROVISIONS, PAYMENT IN RESPECT OF ANY DELIVERY ALREADY MADE SHALL BE IMMEDIATELY DUE.
- 12.01 The Purchaser shall not cancel an order which has been accepted by us without the written agreement of our authorised representative and if such agreement is given the Purchaser shall pay to us such a sum as we shall consider reasonable in respect of work done and materials supplied or ordered.

FORCE MAJEURE

- 13.0 All reasonable efforts will be made to carry out any contract to which these conditions apply but if we are prevented (directly or indirectly) from making delivery of the products or performing or completing any of our obligations hereunder by reason of acts of God, war, strikes, trade disputes, or other industrial action, fires, droughts, floods, explosions, breakdowns, interruption of transport, refusal of licence, Government or administrative action, delays in delivery to us or increase in the price of any goods or materials, any statute rule regulation order requisition recommendation or directive of any Government agency or other authority or any other body of competent judicial authority, or any other cause whatsoever, (whether or not of the like nature to those specified above) which shall reasonably be considered to be outside our control, we shall be under no liability whatsoever to the Purchaser, and shall be entitled at our option (to be notified to the purchaser in writing by our authorised representative) either to cancel the contract (whereupon we shall be relieved of all liabilities hereunder) or to extend the time of its performance by a period equivalent to that during which performance by us has been prevented by the circumstances herein before referred to.

WARRANTY

- 14.0 Unless an Authorised Representative shall have otherwise agreed in writing with the Purchaser we will at our option either repair or replace without charge for delivery ex-factory unpacked any part or parts of the product which are shown to our satisfaction to be or which have become defective (other than as a result of fair wear and tear) within the warranty period described overleaf (but if no warranty period is described overleaf the warranty period shall be twelve calendar months from the date on which the original goods shall first have been despatched from our factory) and which are carefully packed and returned at the PURCHASERS expense to our factory, provided that notice of such defects and satisfactory proof thereof is given by the PURCHASER promptly after discovery and provided further that the defect is not due in whole or in part to mistreatment, lack of or improper maintenance or failure to observe any operating instruction issued by us in connection therewith. Goods will only be accepted for return if the purchaser complies with the requirements of our Returns Material Authorisation (RMA) system.

14.01 Certain Products may be sold with a Limited Lifetime Warranty. Only Products that are expressly designated and sold by Lambda as covered by the Limited Lifetime Warranty will be so covered. Such Products will have an extended warranty that is defined as the period ending five (5) years after Lambda discontinues manufacturing the product (as determined by Lambda), but the warranty period shall be at least ten (10) years from the date of sale by Lambda or an authorised distributor to the original end-user. Excluded from this Limited Lifetime Warranty are fans, blowers or other air moving devices or assemblies forming part of the covered Products. The Limited Lifetime Warranty applies only to the original end-user purchaser and is not transferable. Neither Lambda's standard warranty nor the Limited Lifetime Warranty shall apply to any Product that has been modified or misused, or repaired by Purchaser, other end-user, or by any third party.

14.02 Save as in this condition herein before expressed and except in those cases where the absolute prohibition against exclusion or restriction of liability shall from time to time apply. WE SHALL NOT BE UNDER ANY LIABILITY WHATSOEVER HOWSOEVER ARISING (INCLUDING WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING LIABILITY WHETHER FOUNDED IN COMMON LAW OR STATUTE ARISING FROM OUR NEGLIGENCE OR THAT OF ANY PERSON FOR WHOM WE ARE VICARIOUSLY LIABLE) IN RESPECT OF OR IN CONNECTION WITH:

- a) any defect in the products which should reasonably have been discovered by the Purchaser on inspection or test prior to acceptance.
- b) any loss or injury or damage including without prejudice to the generality of the foregoing any loss of profit or other consequential loss of any description in connection with the products or any work done in connection therewith.

The PURCHASER is advised to obtain appropriate insurance cover to protect himself against such risks in (b) above for which our liability is excluded.

14.03 Should the PURCHASER wish us to assume a greater liability in respect of the products, we will be pleased to discuss the terms (including payment) upon which such greater liability will be assumed by STRICTLY ON THE BASIS THAT SUCH GREATER LIABILITY SHALL BE AGREED IN WRITING WITH OUR AUTHORISED REPRESENTATIVE before the contract in respect of the products is entered into.

14.04 NOTHING IN THIS CONDITION AFFECTS OR WILL AFFECT THE STATUTORY RIGHTS OF A CONSUMER PURSUANT TO A CONSUMER TRANSACTION (all as defined in the Consumer Transactions (Restrictions on Statements) Order 1976).

SUITABILITY

15.0 The Purchaser assumes responsibility that products stipulated by him are sufficient and suitable for his purposes and save insofar as specific mention thereof is made in any quotation or offer the purchaser shall not rely upon our skill or judgement as to whether the products are fit for any particular purpose as to the manner in which the products shall be used, irrespective of any advice which may have been given by us, our servants or agents in good faith.

PERFORMANCE AND DRAWINGS, etc.

- 16.0 All specifications, illustrations, drawings, particulars, dimensions and performance and other criteria are intended merely to present a general idea of the products described and unless otherwise specifically agreed in writing by our authorised representative do not constitute a warranty or representation that any products purchased will conform to any specification, illustrations, drawings, particulars, dimensions or criteria.
- 16.01 Every effort is made to ensure that the most modern specification and design are available and we reserve the right to incorporate changes in design, construction and composition, materials, arrangement or equipment as we shall think fit without notifying the Purchaser and to supply products which may not be in strict accordance with the agreed specification so long as any such change shall not materially alter the advertised or stated performance or quality of the product.
- 16.02 For the purposes of these Conditions Design Information; shall mean any plan specification illustrations.