



## TERMS & CONDITIONS

### 1. INTERPRETATION

a) The definitions and rules of interpretation in this condition apply in these conditions. i) Buyer means the company, firm or person who places an order with the Company or otherwise agrees to buy from the Company any of the Goods. ii) Company shall mean Air Diffusers Limited. iii) Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions. iv) Goods shall mean any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them) and shall include materials, equipment, spare parts and any other items supplied, serviced, repaired, loaned or hired by the Company. v) Director shall mean a director of the Company.

b) A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

c) Words in the singular include the plural and in the plural include the singular.

d) A reference to one gender includes a reference to the other gender.

e) Condition headings do not affect the interpretation of these conditions.

### 2. APPLICATION OF TERMS

a) Subject to any variation under condition 2.b) the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

b) These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a Director of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

c) Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.

d) No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.

e) The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

f) Any quotation provided by the Company for the Buyer, unless otherwise stated in writing, shall expire after 30 days.

g) Any quotation is given on the basis that no Contract shall come into existence until the Company dispatches an acknowledgement of order to the Buyer.

h) The Company reserves the right to vary these Terms and Conditions and will give the Buyer 30 days' written notice of any material changes.

### 3. PRICES

a) The price shall be that ruling according to the Company's price list for the Goods, in force at the date of dispatch or that agreed by the Company and the Buyer in writing.

b) The Buyer shall be liable for any increase in price or expenses incurred by the Company arising out of any delay caused by the Buyer.

c) The Company reserves the right to alter prices without prior notice to reflect variations in the Company's own costs of materials, fuel and labour.

### 4. TERMS OF PAYMENT

a) Charges for Goods and services supplied by the Company shall be paid in full on or before delivery or completion unless the Buyer has an account with the Company.

b) Where the Buyer has an account, payment shall be made 30 days from month end.

c) Where the Buyer has purchased items/services by card payment, with an ongoing monthly charge (such as rental charge), the Company will debit the same card used in the original transaction, to receive payment for the monthly charge.

d) If credit facilities are agreed between the parties, and the Buyer exceeds the agreed level of credit, the excess shall be payable immediately.

e) If payment by the Buyer is delayed, the Company may: i) suspend the delivery or supply of Goods or services due to the Buyer. ii) pass on to the Buyer all debt recovery expenses including but not limited to debt collection costs incurred by the Company from a debt collection agency, tracing costs in relation to finding a Buyer that has absconded from the address given in the Credit Application and legal costs on an indemnity basis. iii) charge late payment interest and compensation consistent with the Late Payment of Commercial Debts Regulations 2002.

f) The Company may at its absolute discretion set or alter the Buyers credit limit.

g) No payment shall be deemed received until the Company has received cleared funds.

h) All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

i) The Buyer shall make all payments due under the Contract in full, without any deduction, whether by way of set-off, counter-claim, 'accord and satisfaction', discount, abatement, or otherwise, unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

### 5. LEGAL OWNERSHIP

a) The property in and title to Goods supplied by the Company shall remain within the Company until: i) the Buyer shall have paid the price plus VAT in full and ii) no other sums whatever shall be due from the Buyer to the Company.

b) The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated to recover them.

c) It will be assumed that where the Buyer purchases similar Goods from the Company on a regular basis that a stock rotation system has operated and Goods still held relate to invoices still outstanding for which full payment and VAT hasn't been made.

## 6. RISK

a) Where a third party carrier is used to deliver the Goods the Risk in the Goods shall pass to the Buyer at the moment when the Goods leave the Company's premises and the risk shall remain the Buyer's regardless of whether the Goods have been received by the Buyer.

b) Until ownership of the Goods has passed to the Buyer (and provided that the Goods are in existence and have not been resold) the Buyer must: i) hold the Goods on a fiduciary basis as the Company's bailee; ii) keep the Goods separate from those of the Buyer and third parties; iii) keep the Goods properly stored, protected, insured and identified as those of the Company; and iv) hold the proceeds of any insurance claim relating to the Goods on trust for the Company and not mix the funds received with any other money, or pay the proceeds into an overdrawn bank account but the Buyer may resell or use the Goods in the ordinary course of its business.

c) The Buyer may resell the Goods before ownership has passed to it solely on the following conditions: i) any sale be effected in the ordinary course of the Buyer's business at full market value; and ii) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

d) the Buyer's right to possession of the Goods shall terminate immediately if the Buyer does any act or omission whereby the Buyer; i) being an individual has a bankruptcy order made against him; or ii) in the case of a corporate Buyer is wound-up, or enters into a compromise or arrangement with its creditors under the Insolvency Act 1986 or suffers the appointment of an administrator or receiver. iii) encumbers or in any way charges any of the Goods.

## 7. SPECIFICATION

a) The Company shall not be under any liability in respect of description or specification or other matters in relation to the Goods contained in any material such as price lists, catalogues, trade publications and advertising matter other than where the description or specification is contained within the contract itself.

b) The Company reserves the right without notice and without affecting the validity of the contract to make such changes in materials, dimensions and design as in the Company's sole opinion are reasonably necessary.

## 8. INSTALLATION

a) Where assembly of Goods supplied by the Company is not undertaken by the Company, the Buyer shall be responsible for assembly in accordance with the Company's instructions and shall ensure that such instructions have been obtained from the Company. Failure to assemble the Goods in the

manner prescribed in the instructions supplied with the Goods will invalidate the Company's responsibility for damage caused to or by the Goods.

b) If any Goods are not of satisfactory quality within the meaning of the Sale of Goods Act 1979 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.

c) If the Company complies with 8.b) it shall have no further liability for a breach of warranty in respect of such Goods.

## 9. INFORMATION AND ADVICE

a) Advice, information and opinion given by any Director, Employee or Agent of the Company is given without legal responsibility.

b) Any recommendation or suggestion made by the Company relating to the use of Goods, whether in technical literature or in response to specific enquiry, is made in good faith, but it is for the Buyer to satisfy him or itself of the suitability of the Goods for his particular purpose, and shall be deemed to have done so.

## 10. LIMIT OF LIABILITY

a) Subject to 6, and condition 8, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Buyer in respect of: i) any breach of these conditions; ii) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and iii) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

b) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

c) Nothing in these conditions excludes or limits the liability of the Company: i) for death or personal injury caused by the negligence of the Company nor its servants or agents; or ii) under section 2(3), Consumer Protection Act 1987; or iii) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or iv) for fraud or fraudulent misrepresentation.

d) Subject to condition 10.b) and condition 10.c) i) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and ii) the Company shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## 11. DELIVERIES

a) Any time named by the Company for the delivery of its Goods is an estimate only, and while every effort will be made to deliver on time the Company will not be liable for any consequences of a delay in delivery.

b) Claim for non-delivery, discrepancy or damage may only be accepted if notified immediately by phone and confirmed in writing within 24 hours of delivery date.

c) The price payable for delivery is as stated in the Company's catalogue, or on the Company's website, unless otherwise agreed, and subject to change from time to time.

d) The Company shall not be liable for any non-delivery of Goods.

## 12. RETURNS

a) The Company is not obliged to accept return of Goods for credit where they have been correctly supplied or specially manufactured. Where the Company voluntarily accepts a return, a 35% handling charge will be applied. No credit will be given unless Goods are returned in perfect resaleable condition with a copy of the invoice under which they were supplied. Nothing in this clause will affect the rights of consumers under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

## 13. GUARANTEES

a) The Company shall assign the benefit to the Buyer of the warranties and/or guarantees in relation to the Goods which the Company receives from its own supplier.

b) Guarantees shall not be applicable outside the United Kingdom unless expressly stated otherwise by the Company in writing.

c) Any guarantee given will be invalidated if the Goods supplied by the Company are subjected to misuse or accidental damage after the Buyer has taken delivery of them.

## 14. FORCE MAJEURE

a) The Company shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in performing, or any failure to perform, any of our obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control.

## 15. ASSIGNMENT

a) The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

## 16. MISCELLANEOUS

a) If any provisions of the Contract shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of the Contract, which shall remain in full force and effect.

b) For the purposes of the Contracts (Rights of Third Parties) Act 1999 the parties do not intend any person other than a party to the Contract to be able to enforce any term of the Contract.

## 17. USE OF PERSONAL INFORMATION

The Company may pass information about the Buyer to its agents and service providers to search files of credit reference agencies to help administer any accounts, services and products provided by the Company, now or in the future. The Company may share information about how the Buyer deals with his accounts with other financial institutions, and with credit agencies to detect fraud or recover loss. It may also be used in order to inform the Buyer about services and product which may

be of interest to them unless requested otherwise. The Buyer consents to the use of information by the Company in accordance with this clause 17.

The Company from time to time may insure its sales ledger and any payments not made within a reasonable time may be notified to the credit underwriters. This could result in the Buyer's credit rating being adversely affected by the Company's credit insurer as well as credit reference agencies. When a credit account is applied for with the Company, the Company may check the following records relating to the Buyer:

a) The Company's own records.

b) Records held by Credit Reference Agencies, who, when they receive a search request from the Company, may leave a search footprint on the Buyer's personal credit file (including Company Director), that may be seen by other Lenders/Organisations. These agencies supply both public (including the electoral register) and shared credit and fraud prevention information. Such information may be used for assessing applications, verifying identity to prevent crime and money laundering. The Company may also make periodic searches at such agencies to manage the credit account with us. The Buyer's data may also be used for other purposes when required by law or where permitted under the terms of the Data Protection Act 1998.

#### 18. LAW

a) This contract shall be governed and construed in accordance with the Laws of England.

19. THE BUYER ACCEPTS THESE TERMS AND CONDITIONS OF SALE AND IS AUTHORISED TO SIGN ACCEPTANCE ON BEHALF OF THE BUYER.

THESE CONDITIONS APPLY WITH EFFECT FROM 1<sup>ST</sup> MAY 2024 AND SUPERSEDE ALL PREVIOUS CONDITIONS ISSUED BY AIR DIFFUSERS LIMITED.

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Air Diffusers Ltd Unit 77, Enterprise Centre, Michael Way, Warth Park Way,

Raunds, NN9 6GR, UK

Tel. +44 (0)1933 697471

Email. [accounts@airdiffusers.co.uk](mailto:accounts@airdiffusers.co.uk)