

GENERAL

1. These Conditions of Trade shall apply to all sales made by Newflow Limited ("the Company") and to all goods ("the Goods") which expression shall include any services rendered in the preparation of the Goods) and services ("the Services") supplied by the Company to any person firm or company ("the Customer") and shall override any condition of purchase placed upon any orders by any Customer.
2. All sales made, Goods supplied or Services rendered by the Company shall be deemed to be made under a contract incorporating these Conditions of Trade and shall be interpreted in accordance with English Law excluding, however, any effect on such laws of the 1980 Vienna Convention on Contracts for the International Sale of Goods.
3. If any one or more of the provisions of these Conditions of Trade shall be adjudged by any Court to be unfair within the meaning of the Unfair Contract Terms legislation or any statutory modification thereof then only those particular provisions shall be unenforceable but the remaining provisions of these Conditions of Trade shall continue in full force and effect.
4. These Conditions of Trade, together with the form of Contract to which they pertain, embody the whole of the Agreement between the Company and the Customer and the Customer acknowledges that it has not entered into this Contract with the Company as a result of any representation or warranty oral or written made by or on behalf of the Company other than as set forth herein.

SPECIFIC

5. Unless otherwise stated on the face thereof, quotations are valid for thirty (30) days from the date thereof; provided that all quotations are subject to change or withdrawal by the Company at any time prior to acceptance thereof
6. Unless otherwise specified in writing the price quoted excludes charges for packing, carriage, installation, commissioning or servicing. Each delivery shall be considered a separate transaction and the failure of any one delivery shall not affect the due performance of the Contract as regards other deliveries.
7. Subject to approval and continued approval of Purchaser's credit by the Company, terms of payment are thirty (30) days from the date of invoice. Alternatively, at the Company's option, payment of all or part of the price prior to supplying the Goods or Services or by satisfactory irrevocable letter of credit drawn on or confirmed by a bank located in England may be required.
8. Any sums due under any invoice shall bear interest at the rate of 2% per month of the value of the invoice from the date payment is due until the date of actual payment such interest to be calculated on a daily basis. In the event of the Company employing solicitors or other agencies to collect all or any sums due from any customer to the Company the costs so incurred by the Company shall be paid by the Customer such costs not being limited to those recoverable under a Court action.
9. The Customer shall be responsible for all taxes and other amounts withheld from or levied on payments due or paid to the Company and shall immediately pay to the Company the equivalent value of any amount withheld.
10. By giving written notice to the Customer, the Company may terminate its obligations hereunder, reserving any right of action or remedy which has accrued or will accrue thereafter to the Company and without penalty and liability to the Customer, if
 - i) the Customer shall be in breach of the conditions of this Contract, or
 - ii) bankruptcy proceedings are initiated by or against the Customer, or the Customer enters into an arrangement for the benefit of its creditors or otherwise becomes insolvent.
11. Terms of Sale shall be Ex Works (EXW) the relevant Company facility pursuant to Incoterms 1990. Goods in transit are insured by the carrier, and all claims for loss or damage to the Goods while in transit shall be made exclusively to the carrier or the insurer.
12. Property in any Goods supplied by the Company to a customer passes to the Customer only when the Goods have been paid for in full. Until such time as payment in full, for the Goods or any Services rendered, has been received by the Company the Customer shall hold such Goods or any monies representing the sale proceeds thereof as trustee for the Company and shall insure such Goods as are in his possession to their full value. In the event of any Goods or Services not being paid for in full by the date upon which payment thereof was due, the Company shall have power to recover possession of the Goods or any other Goods supplied by the Company to the Customer and retained by the Customer and the Customer hereby expressly grants an irrevocable licence to the Company to enter upon any premises upon which such Goods are located to recover possession thereof.
13. The Company's liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Contract or from the performance or breach hereof or from the design, manufacture, sale, delivery, resale, installation, technical direction of installation, inspection, repair, operation or use of any Goods covered by or Services furnished under this Contract shall in no case exceed the price attributable to the Goods or Services thereof which gives rise to the claim.
14. Notwithstanding any other provision to the contract, neither Party shall be liable to the other, whether as a result of breach of contract or warranty or alleged negligence, for special or consequential damages, including, but not limited to, loss of profits or revenue, loss of use of the equipment, facilities or services, down time costs or claims of customers of the Customer for such damages.
15. The Company will use its best endeavours to supply Goods or Services upon the dates specifically agreed in writing between the Company and the Customer, but in the event of the Company being unable to meet such dates, no claim shall arise against the Company by the Customer.
16. The Company shall not be liable for any breach of Contract for the supply of Goods or Services if it is prevented from performing its part of the Contract by any matter whatsoever beyond its reasonable control. In addition the Company shall not be responsible in any way for the acts or omissions of any third party employed by the Customer directly or for any liability howsoever arising incurred by the Customer in or by reason of the Customer's employment of such third party
17. Goods, once delivered, may be returned to the Company only with prior written authority from the Company unless those Goods are accepted by the Company as being defective as to material or workmanship. In the event of a return being authorised by the Company the Company shall have the right to charge carriage to and from the delivery location and the costs involved in the removal of the Goods from the Customer's premises.
18. Preparatory to entering into any Contract the Company may supply to the Customer drawings, technical specifications, catalogues, and other matter based upon information supplied by the Customer, to assist the Customer in planning his requirements. Whilst every effort will be made to ensure the accuracy of the same the Company takes no responsibility for any items so supplied and it is the Customers responsibility to ensure that all information given by him is accurate.
19. Any order placed with the Company cannot be varied except by agreement in writing signed by the Company. In the event of the Company agreeing to vary any order, the costs of all additional works done by the Company both in design or production shall be paid by the Customer either at the date of such variation or at the date of delivery of the Goods or supply of the Services whichever the Company shall decide.

20. If delivery is delayed by the Company at the request of the Customer, payment shall become due on the date when the Company would have been entitled thereto had no such delay occurred, and if such delay exceeds 30 days, interest shall accrue on such payment from said date at the rate of 2% per month of the value of the invoice. The Goods involved in any such delay shall be stored by the Company at the Customer's risk and expense, and, unless the parties otherwise agree, the Customer shall pay to the Company a storage charge of one-half of one percent (0.5%) per month on the invoice value of the Goods. Such storage charges to be paid in cash on delivery.
21. If an order is cancelled by a Customer, then the Customer shall pay to the Company all costs (including the cost of all labour and materials used and overheads incurred), damages, charges and expenses arising out of the order and the cancellation thereof and a reasonable profit for the costs incurred. The Company will give credit for the value of any such materials sold or utilized for other purposes.
22. No waiver by either party of any provision of these Conditions shall be binding unless made expressly and expressly confirmed in writing. Further, any such waiver shall relate only to such matter, non-compliance, or breach to which it expressly relates and shall not apply to any previous, subsequent or other matter, non-compliance or breach.
23. The Company reserves the right to sub-contract any work involved in any order. The Company contracts on the basis of these conditions as agents for all its employees and sub-contractors who shall be entitled to benefit from the limitations or exclusions of liability contained in these Conditions.

SPECIAL

24. The Goods are carefully inspected and where practicable submitted to standard tests before despatch. If in addition the Customer requires a special test or a test in the presence of a representative of the Customer, this will be subject to additional charge to the Customer unless included in the quoted price. In the event of the Customer failing to attend such a test after three days notice of the time and place, the test will proceed in the Customer's absence. Unless otherwise agreed all tests shall be made at the Company's premises.
25. Goods and Services supplied by the Company are guaranteed against defects due to faulty material or workmanship for a minimum period of one year from the date of despatch for Goods, and 90 days from completion of work for Services. Replacement parts provided under the terms of this warranty are warranted for the remainder of the warranty period applicable to the Goods, as if such parts were original components of the Goods. This warranty does not extend (i) to normal wear and tear, improper treatment, servicing faults or improper use, (ii) to equipment, materials, parts and accessories manufactured by others. Products described as "active" in the life cycle definition will be offered with a two year warranty.
26. All Goods are designed and manufactured to be compliant with BSI PD2000-1. The Company therefore warrants that all date related functions will operate correctly for all dates up to the year 2027 provided that no changes are made nor work carried out on Goods supplied which might impair any existing capability of the Goods to meet year 2000 compliance criteria.
27. The Company accepts no liability for Goods being fit for the purpose required by the Customer unless it shall have been given full and accurate particulars of the Customer's requirements and of the conditions under which the Goods are required to be used.
28. All "active" products are subject to the company's continual improvement process and changes may be made to ensure the long term availability and support for our products.
29. Upon written notification received by the Company within the above-stated warranty period of any failure to conform to the above warranty, upon return prepaid to the Company of any non-conforming original part or component, and upon inspection by the Company to verify said non-conformity, the Company at its sole option either shall repair or replace said original part or component without charge to the Customer, or shall refund to the Customer the price thereof. The Company shall ship the repaired or replaced part or component to the Customer at the Company's expense. However, if the Company's inspection fails to verify the claimed non-conformity, the Goods will be returned to the Customer at its expense and the Customer will be liable for any costs incurred by the Company in investigating the claimed non-conformity. The remedies set forth herein are exclusive without regard to whether any defect was discoverable or latent at the time of delivery of the Goods to the Customer.
30. The Customer recognizes the exclusive right of the Company to all trademarks, patents and other intellectual property associated with the design, manufacture, application, installation of the Goods and the validity of all such patents.
31. The Company shall indemnify the Customer against all third party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof
32. The Customer shall indemnify the Company against all claims for royalties, damages or other losses whatsoever arising when, as a result of the Goods being manufactured to the Customer's specification, such Goods infringe any right protected by patent or otherwise.
33. The Customer and the Company shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the contract to which these Conditions apply whether such information has been furnished prior to, during, or following termination of the contract. The Customer shall not use such documents, data and other information received from the Company for any purpose other than the operation and maintenance of the Goods. Similarly, the Company shall not use such documents, data and other information received from the Customer for any purpose other than the design, and manufacture of the Goods, or such other work and Services as are required. Notwithstanding the above, the Company may furnish to its sub-contractor(s) such documents, data and other information it receives from the Customer to the extent required for the Sub-contractor(s) to perform its works under the contract, in which event the Company shall obtain from such Sub-contractor(s) an undertaking of confidentiality similar to that imposed on the Company under this clause.
34. The Customer shall be bound by the relevant UK export regulations relating to Goods sold to the Customer.
35. The Contract to which these Conditions apply shall be binding upon and inure for the benefit of the successors and assigns of the Company or the Customer
36. All disputes arising out of the contract shall be subject to the exclusive jurisdiction of the English courts.
37. Any notice given by one party to the other shall be sent to the other party in writing or facsimile and confirmed in writing to the other party's address. A notice shall be effective when delivered or on the notice's effective date, whichever is later.