

**TERMS AND CONDITIONS OF SALE**

**1. GENERAL**

These conditions of sale apply to any sale of items or equipment of the Company or, where a quotation is made, they shall form part of that quotation.

**2. PRECEDENCE**

In the event of conflict between these conditions and those which may be included in, or implied by, any document forming part of any inquiry, specification, order or contract then these conditions shall prevail except in so far as they are expressly varied by the Company in writing. If any condition is contrary to or excluded by law these conditions shall be modified but only to the extent of excluding that part of the conditions affected.

**3. ACCEPTANCE**

A quotation is not to be construed as an offer or obligation to sell and the Company reserves the right to accept or reject any order received.

**4. PRICES**

- a) All prices are subject to change without notice and orders are accepted by the Company on the condition that they will be invoiced at the prices ruling at the date of despatch. All prices are strictly net unless otherwise stated.
- b) Every endeavour will be made to give 30 days notice of any increase.
- c) All retail prices shown in published catalogues or price lists are recommended selling prices only and there is no obligation on the part of the reseller to maintain such prices.
- d) A quotation includes only such goods as are specified therein. The Company reserves the right to cancel any sale where goods offered ex stock have been previously sold or otherwise committed.

**5. FREIGHT**

- a) Freight will be charged to the Purchaser on each order requiring delivery by the Company.
- b) The Purchaser may nominate the preferred freight method and be responsible for all freight charges.
- c) Where the Purchaser requires freight to be prepaid, all expenses will be to his account at cost.

**6. SALES TAX**

The prices quoted do not include sales tax unless specifically stated.

**7. TERMS OF PAYMENT**

Settlement is strictly 30 days from end of month of purchase. If the Purchaser's account exceeds the Company's terms the Purchaser's orders will be held pending payment, and once over 45 days, the Purchaser's account will be placed on a COD basis. If the terms of payment are not met, the Purchaser will pay the Company's costs in pursuing any recovery action including debt recovery fees and legal costs.

**8. DELIVERY**

The delivery period quoted commences from the date the Company receives sufficient information to proceed with supply or from the date the company receives the Purchaser's written order, whichever is the later date. Quoted delivery dates are subject to confirmation when placing the order. Unless otherwise agreed by the Company in writing, the Company shall not in any event be liable to the Purchaser for any delay in the delivery or any nondelivery of the goods or any part of them.

**9. CREDITS**

Goods will not be accepted for credit without prior approval of personnel at the Company's Sales Office. All goods approved for return shall be returned freight prepaid and subject to a 10% restocking charge.

**10. CANCELLATION OR VARIATION**

An order may, at the Company's option, be terminated in the event of insolvency of the Purchaser or of execution being levied against any of the goods of the Purchaser or of the Purchaser being placed in liquidation,

whether voluntarily or otherwise or of a mortgagee entering into possession of any assets of the Purchaser. An order may be varied only if such variation is accepted by the Company in writing. A variation or cancellation by the Purchaser is subject to agreement by the Company and in any event is subject to the Company being indemnified by the Purchaser against any loss or damage.

**11. PURCHASER'S SPECIFICATIONS**

The Company shall not be deemed to have agreed to comply with any specifications and drawings referred to in any order unless such specifications and drawings have been produced to the Company prior to the delivery of goods and are signed by the Company.

**12. VALIDITY**

Unless otherwise stated quotations are open for acceptance for a period of 30 days from the date of quotation and thereafter are subject to confirmation before acceptance. If on acceptance of a quotation the delivery date exceeds a period of 60 clear days then the Company may amend the quotation. Furthermore in the event of alterations to design or specifications all quotations given are subject to withdrawal or variation at any time prior to acceptance. Unless confirmed in writing by the Company any verbal agreement to vary undertakings, assurances or understandings relevant to the quotation shall not be binding.

**13. TERMS AND CONDITIONS OF TRADE**

Full terms and Conditions of Trade form part of this credit application and are located at [allairduct.com](http://allairduct.com). These provide additional details of Returns, Faults and Credit, Warranty and Cancellation and changes.

**14. INSPECTION**

The Purchaser shall inspect the products delivered on their arrival. If the Purchaser considers that the products are not in accordance with the contract, written notice must be given to the Company within 7 clear days and if no notice is received by the Company within that time the products are deemed to be in all respects in accordance with the contract.

**15. PACKING**

Unless stated otherwise in the quotation the price quoted includes packing in accordance with the Company's standard practice. Any other packing requested by the Purchaser or deemed necessary by the Company will be charged in addition to the price quoted.

**16. DAMAGE OR LOSS IN TRANSIT**

Where carriage is the responsibility of the Company, the Company will repair or may replace free of charge contract goods lost or damaged in transit to the contractual point of delivery provided written notice of such loss or damage is given to the Company within 3 days of delivery or expected delivery, or within such times as will enable that Company to comply with the carrier's conditions of carriage affecting loss or damage in transit.

**17. RISK**

The goods shall be at the risk of the Purchaser from the time of delivery to the Purchaser's store (where carriage is the responsibility of the Company) or otherwise from the time of their delivery to the Purchaser or its carrier.

**18. PRODUCT DESIGN**

The Company engages in a policy of continuous development and improvement of its products. Therefore the Company reserves the right to alter the design and/or specifications of any product or equipment without notice and without incurring liability

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**19. WARRANTY**

All goods which are the Company's own are guaranteed against faulty workmanship, materials or design, for a period of 12 months from the date of despatch, after which all liability on the part of the Company ceases. The guarantee does not apply in the following cases:

- a) defect arising from materials supplied by the Purchaser or from a design requested by the Purchaser;
- b) replacements or repairs resulting from normal wear of units and machinery, corrosive atmosphere, damage or injury caused by lack of care, insufficient inspection or maintenance, or improper use of the goods;
- c) failure attributable to fortuitous circumstances or "force majeure".

The guarantee consists of repairing, modifying or replacing the parts or units recognised as defective within the shortest time at the Company's premises and at the Company's expense, inclusive of parts and labour, but exclusive of transport and/or travelling expense. Subject to the above, the Company's liability and that of its resellers is wholly limited to the original cost of the product sold.

Any unauthorised repairs or alterations to the equipment shall invalidate this warranty.

In the case of goods not of the manufacture of the Company or its principals, the Company undertakes that it will, if requested in writing by the Purchaser, make all reasonable endeavours in assisting the Purchaser to obtain from the manufacturer the benefit of any guarantee or warranty which the manufacturer may have expressly given as to the quality or fitness for any purpose of the goods, except as may otherwise be provided for by law.

The fulfilment of this undertaking shall constitute the Company's sole liability in respect of any faulty goods not of the manufacture of the Company or its principals.

Neither the reseller nor the Company shall be liable for any injury, damages, expenses, or loss of profit, direct or consequential, arising out of the use or installation of products supplied by the Company all of which are supplied at the sole risk of the user.

This warranty is in addition to any statutory warranty which a Purchaser cannot waive but all other warranties are waived by the Purchaser.

**20. DEFAULT OF PURCHASER**

If the Purchaser defaults in the due observance or performance of any or all of his obligations under any contract arising out of this offer or being a company takes or shall have taken against it any action for the winding up of the Company or the placing of the Company under official management or receivership, or if a mortgagee of the Purchaser takes possession of any of the Purchaser's assets or being an individual the Purchaser petitions for his bankruptcy or seeks to assign his estate for the benefit of his creditors then the Company without prejudice to any other rights or remedies open to it may:

- a) determine the contract and/or suspend manufacture or delivery, installation, commissioning or testing of any goods then outstanding;
- b) retain any security given or money paid by the Purchaser or available through enforcement of guarantee or security bonds lodged and apply this against the loss and damages incurred by it in the performance of the contract;
- c) take such steps as it may deem necessary to mitigate the damage suffered including the putting to use, hiring out, sale or disposal of any goods supplied, or to be supplied under the contract and in its possession;
- d) exercise its rights under Clause 21.

**21. RETENTION OF TITLE**

- a) The full legal and equitable title in the goods to be supplied to the Purchaser (whether such goods are transported by the Company to the Purchaser or are collected by the Purchaser from the Company's premises) is retained by the Company until payment is made in full for the goods. Until the moment of full payment of what the Purchaser owes the Company for the goods the Purchaser shall keep the goods for and on behalf of the Company in the Company's capacity as fiduciary owner.
- b) In respect of goods not paid for in full the Company authorises the Purchaser to sell the goods as the Company's fiduciary agent for the account of the Company only. The proceeds of the sale are the property of the Company and the Purchaser shall hold such proceeds for and on behalf of the Company in a fiduciary capacity. The Purchaser shall pay such proceeds of sale into a separate account for the Company and keep separate records as to such goods sold and the amount received.
- c) In respect of goods not paid for in full the Purchaser shall ensure that such goods are stored in such a way that they are clearly identifiable as property of the Company and are not intermingled with the property of the Purchaser or any other person. The Purchaser shall not in any way alter or treat such goods so as to change their quality or nature in any way.
- d) The Purchaser shall notify the Company in writing of any intended sale of the Purchaser's business which includes or purports to include goods not paid for in full as part of the Purchaser's stock.
- e) Payment of what the Purchaser owes the Company for goods shall be deemed to have been made when cheques for the price have been met and honoured in full and there is no possible recourse by any liquidator of the Purchaser in respect of such payment.
- f) While the Company retains full and equitable title in the goods the Purchaser shall not bail, pledge, mortgage, charge, obtain or grant a lien over, lease or assign by any other way, any security in the goods. Only sales pursuant to sub-clause (b) hereof are allowed.
- g) The Company agrees that for the time being the Purchaser may retain possession of goods which have not been paid for in full but should the specified period expire under normal trading terms before payment of the goods is completed by full honoured cheque(s) or cash or, should any event detailed in Clause 20 above occur, then the Company and its agents and employees have the right to enter any premises in which the goods are stored and take possession of any of the goods in addition to any deficiency in the sale price after paying the costs of recovery and crediting goods recovered by the Company.

**22. EXPORT SALES**

- a) Terms of payment:- All prices quoted are in Australian Dollars unless specified to the contrary. Payment is by cash prior to despatch, or at sight by irrevocable confirmed letter of credit. Confirmation costs to be borne by the opener.
- b) Freight:- Prices are ex works Brisbane, Queensland. Transport costs are to international departure point, either sea or air, and are additional charges to export prices.
- c) Insurance:- As a service, this can be arranged for the Purchaser but at its cost.

**23.** Any contract for the sale of goods by the Company to the Purchaser shall be governed by the law of the State of Queensland and the Purchaser submits to the nonexclusive jurisdiction of its courts.

**24.** Any notice, consent or other communication hereunder may be by facsimile and will be deemed to have been received on the next business day after transmission.