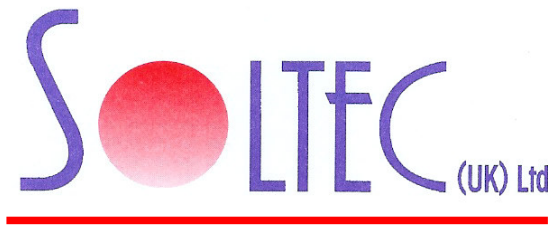


Soltec (UK) Ltd  
Unit 3 Priory Works  
Priory Avenue  
Southend-on-Sea  
Essex SS2 6LD  
Tel: 01702 301080  
Fax: 01702 466663  
Web: [www.soltecuk.com](http://www.soltecuk.com)  
Email: [info@soltecuk.com](mailto:info@soltecuk.com)



Specialists in  
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ventilation & extraction  
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Registration No 3238080  
VAT No 723002003

## TERMS AND CONDITIONS OF SUPPLY

Third revision 2007



## **1 INTERPRETATION**

1.1 In these Conditions the following terms shall have the following meanings: "Customer" the person who accepts a quotation given by the Supplier for the sale of the Goods and / or supply of Services or whose order for the Goods or Services is accepted by the Supplier; "Conditions" the terms and conditions of sale or supply of Services set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier; "Contract" the contract for the purchase and sale of the Goods and / or supply of Services; "Goods" the air-conditioning goods (including any installment services in respect of the Goods or any parts for them) described in the quotation given by the Supplier to the Customer, or the order from the Customer accepted by the Supplier, which the Supplier is to supply in accordance with these Conditions; "Services" the services as set out in the quotation given by the Supplier to the Customer, or the order from the Customer accepted by the Supplier, which the Supplier is to supply in accordance with these Conditions; "the Supplier" Soltec UK Limited (No 3238080);

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time. The headings in these Conditions are for convenience only and shall not affect their interpretation. A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1998 to enforce any term of the Contract.

## **2 BASIS OF THE SUPPLY**

2.1 The Supplier shall sell and the Customer shall purchase the Goods and / or Services in accordance with any written quotation of the Supplier which is accepted by the Customer or any written order or verbal order of the Customer which is accepted by the Supplier in writing, subject in either case to these Conditions which shall, subject to any variation in accordance with condition 2.2, govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

2.2 The Supplier warrants its designs only in relation to Goods provided, installed and serviced by the Supplier.

2.3 When providing Goods and /or Services on the premises of the Customer, the Supplier shall comply with all reasonable requests and all Health and Safety policies of the Customer.

2.4 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Customer and the Supplier.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to the correction without any liability on the part of the Supplier.

2.6 The Contract shall be formed upon the Customer's acceptance of any written quotation of the Supplier, or any written order or verbal order of the Customer which is accepted by the Supplier in writing.

## **3 ORDERS AND SPECIFICATIONS**

3.1 No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative or delivery of the Goods by the Supplier.

3.2 The Customer shall: provide to the Supplier all information and assistance as may be required in sufficient time to enable the Supplier to supply the Goods and / or Services in accordance with this contract; be responsible to the Supplier for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer; and be liable for any and all losses caused by inaccurate information it supplies.

3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Supplier's written or verbal quotation (if accepted by the Customer) or the Customer's written or verbal order (if accepted by the Supplier in writing).

3.4 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all loss (including consequential loss and loss of profit) and costs (including the cost of cancellation of any orders placed by the Supplier in order to fulfill the contract, transportation and warehousing costs), damages, charges and expenses incurred by the Supplier as a result of such cancellation.

3.5 All drawings, designs, specifications and other information provided by the Supplier are confidential and all rights of copyright ownership and other intellectual property rights in respect of them shall remain vested in the Supplier and shall not pass to the Customer.

#### **4 PRICE OF THE GOODS**

4.1 The price of the Goods and / or Services shall be the Supplier's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Supplier's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Customer, after which time they may be altered by the Supplier without giving notice to the Customer.

4.2 The Supplier reserves the right by giving notice to the Customer at any time before delivery, to increase the price of the Goods or Services to reflect any change in delivery dates, quantities or specifications for the Goods or Services requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation or in any price lists of the Supplier, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are given by the Supplier on an ex-works basis, and where the Supplier agrees to deliver the Goods otherwise than at the Supplier's premises, the Customer shall be liable to pay the Supplier's charges for transport, packaging and insurance.

4.4 The price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Supplier.

#### **5 TERMS OF PAYMENT**

5.1 Subject to any special terms agreed in writing between the Customer and the Supplier, the Supplier may invoice the Customer for the price of the Goods and / or Services on or at any time after delivery of the Goods and /or Services, unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Supplier shall be entitled to invoice the Customer for the price at any time after the Supplier has notified the Customer that the Goods are ready for collection or (as the case may be) the Supplier has tendered delivery of the Goods and /or Services.

5.2 The Customer shall pay the price of the Goods and / or Services within 30 days of the date of the Supplier's invoice. The time of payment of the price shall be of the essence of the Contract. No payment shall be deemed to have been received until the Supplier has received cleared funds.

5.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to: cancel the Contract or suspend any further deliveries to the Customer; charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above National Westminster Bank base lending rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## **6 DELIVERY**

6.1 Delivery of the Goods shall be made by the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed by the Supplier, by the Supplier delivering the Goods to that place

6.2 If the place of delivery is not the Supplier's premises, the Goods shall be delivered by such means as the Supplier thinks fit, unless the Customer has specified in its order the details of the contract with the carrier which it reasonably requires having regard to the nature of the Goods and the other circumstances of the case

6.3 Any dates quoted for delivery of the Goods and /or Services are approximate only and the Supplier shall not be liable for any delay in delivery of the Goods and /or Services however caused. Time for delivery shall not be of the essence unless previously agreed by the Supplier in writing.

6.4 Where the Goods are to be delivered in installments, each delivery shall constitute a separate Contract and failure by the Supplier to deliver any one or more of the installments in accordance with these Conditions or any claim by the Customer in respect of any one or more installments shall not entitle the Customer to treat the Contract as a whole as repudiated.

6.5 If the Supplier fails to deliver the Goods for any reason other than any cause beyond the Supplier's reasonable control or the Customer's fault, and the Supplier is accordingly liable to the Customer, the Supplier's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.

## **7 RISK AND PROPERTY**

7.1 Risk of damage to or loss of the Goods shall pass to the Customer: in the case of Goods to be delivered at the Supplier's premises, at the time when the Supplier notifies the Customer that the Goods are available for collection; or in the case of Goods to be delivered otherwise than at the Supplier's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods

7.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until the Supplier has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Supplier from the Customer on any account.

7.3 Until such time as the property in the Goods passes to the Customer, the Customer shall: hold the Goods as the Supplier's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Supplier's property; be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Supplier for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from moneys or property of the Customer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

7.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Supplier shall be entitled at any time to require the Customer to deliver up the Goods to the Supplier and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods.

7.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all moneys owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

## **8 WARRANTIES AND LIABILITY**

8.1 Subject to the conditions set out below the Supplier warrants that the Goods will in all material respects correspond with their specification at the time of delivery and will be free from material defects in material and workmanship as defined by the original manufacturer (details of which shall be provided with the Goods) and any Services supplied will be supplied with reasonable skill and care.

8.2 The warranty in clause 8.1 is given by the Supplier subject to the following conditions: the Supplier shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Customer; the Supplier shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Supplier's and/or original manufacturer's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Supplier's approval; the Supplier shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid and the due date for payment has passed.

8.3 The above warranty does not extend to parts, materials or equipment not supplied by the Supplier, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Supplier.

8.4 Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.5 All and any claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification and/or any failure in respect of any Services shall (whether or not delivery is refused by the Customer) be notified in writing to the Supplier within 7 days from the date of delivery (or supply in the case of services) or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Customer does not notify the Supplier accordingly, the Customer shall not be entitled to reject the Goods or any Services and the Supplier shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods and/or Services had been supplied in accordance with the Contract.

8.6 Where any valid claim in respect of a breach of warranty given under clause 8.1 of any of the Goods and/or Services which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Supplier in accordance with these Conditions, the Supplier shall be entitled to replace the Goods and/or re-supply the Services (or the part in question) free of charge or at the Supplier's sole discretion, refund to the Customer the price of the Goods and/or Services (or a proportionate part of the price), but the Supplier shall have no further liability to the Customer.

8.7 Except in respect of any other matters in respect of which the Supplier's liability may not by law be restricted or excluded, the Supplier's total liability in respect of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract which arises out of or in connection with the supply of the Goods or Services or the use or resale of Goods by the Customer, shall not exceed the total sums paid or payable by the Customer to the Supplier under the Contract. The Supplier shall not be liable for indirect or consequential losses (including, without limitation, loss of business and loss of reputation) and/or loss of profits.

8.8 The Supplier shall not be liable to the Customer or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Goods or Services if delay or failure was due to any cause beyond the Supplier's reasonable control.

## **9 INSOLVENCY OF CUSTOMER**

9.1 This clause applies if: the Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or the Customer ceases, or threatens to cease, to carry on business; or the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

9.2 If clause 9.1 applies then, without prejudice to any other rights or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered or Services provided but not paid for the price shall become immediately due and payable notwithstanding any previous agreement to the contrary.

## **10 GENERAL**

10.1 The Supplier may perform any of its obligations or exercise any of its rights hereunder by itself or through any sub-contractor, provided that any act or omission of any such sub-contractor shall be deemed to be the act or omission of the Supplier.

10.2 No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

10.3 The Contract shall be governed by the laws of England and the parties hereby agree to submit any dispute to the exclusive jurisdiction of the English courts.