

## 1. GENERAL

- (a) All offers remain open for acceptance within 30 days after the date of our quotation and subject to availability of the goods at the date of issue of our acceptance of order or confirmation of Contract.
- (b) Acceptance must be by way of unqualified acceptance of our written quotation and its contents, terms and conditions. Descriptions, illustrations, specifications, drawings and particulars of weights and dimensions contained in our catalogues, advertisements and other literature are approximate only and form no part of the contract.
- (c) All extras and accessories ordered but not specified in our quotation will be charged separately as will the costs of all test adjustments, alterations, additions and other work undertaken at the Buyer's request. (d) Unless expressly accepted by our authorised signatory in writing, any qualification or amendment of these conditions (whether in the Buyer's order or acceptance of our offer or otherwise) shall be invalid.
- (e) No binding contract will be created by the Buyer's acceptance of our offer until our written confirmation of the Contract has been dispatched to the Buyer.
- (f) Acceptance of delivery of the goods shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.

## 2. CONSEQUENTIAL LOSS OR DAMAGES

- (a) Save as expressly provided in these Conditions we shall be under no liability whatsoever in respect of any loss, damage, injury or expense whatsoever arising from any defect in the goods and in particular (but without prejudice to the generality of the foregoing) we shall not be liable for any consequential damage or expense or any loss of profit or any liability to third parties incurred by the Buyer in consequence of such defects. Nothing in these conditions shall apply to exclude or restrict any liability which cannot be excluded or restricted by virtue of the Unfair Contract Terms Act.
- (b) The Buyer will indemnify us in respect of any liability, loss, claim or proceeding whatsoever arising whether under Statute or at Common Law in respect of any damage to property or the death of or injury to any person caused by or by the use of any Goods sold by us to the Buyer unless in the cases of death or personal injury only, such death or injury shall be proved to have been caused by our negligence or that of our employees.

## 3. CHANGES

IN Specification We reserve the right to make changes at any time and without notice in the materials, dimensions, colours and design of our products and such changes shall not affect the validity of any contract between us and the Buyer provided that such variations and modification do not adversely affect in any material way the performance of the said products or the quality of workmanship or of materials used. Sizes quoted are to be taken as nominal, by nature of the products being inflated it is impossible to define exact sizes. Variations can occur.

## 4. WARRANTIES

All implied warranties are hereby excluded to the fullest extent permitted by law and only such warranties as are expressed given by us shall apply.

## 5. PRICES

- (a) Unless otherwise stated all prices quoted are for goods ex our Works. Packing and carriage costs will be charged extra for the Buyers account.
- (b) All prices quoted are subject to alterations without notice to take account of fluctuations in the cost of labour and materials and of alterations in rates of exchange and import duty which may occur in the course of manufacturing the goods.
- (c) We shall be entitled to adjust the price to take account of any delay on the part of the Buyer in supplying information required to complete his order or of any alteration made by the Buyer to the specifications or other information supplied by the Buyer.

## 6. PAYMENT AND TITLE OF GOODS

- (a) 50% deposit payable with order unless otherwise stated.
- (b) Balance of price to be paid and cleared prior to despatch, unless previous arrangements have been made.
- (c) Deposit not refundable in the event of cancellation.
- (d) For account customers - Terms are strictly nett. Payments to be made within 30 days of the invoice date.
- (e) Until full payment has been received by us as specified in our quotation. We shall retain the ownership of the goods and the Buyer shall: (1) hold them as bailee only and shall not sell, part with or modify them in any way nor incorporate them into any other machine or device in such a way as to destroy or obscure their identity. And (2) insure them for their full contract value against 'All Risks' with an underwriter or insurance company approved by us, our interest is to be noted on the policy and a certificate to this effect is to be produced to us on request. And (3) store them separately from all other goods and in such a way and place that they may at all time be clearly identified as our property.

(f) (1) In the event of a failure by the Buyer to pay for the goods and/or the commission of an act at bankruptcy and/or the commencement of any proceedings to wind-up the Buyer where the Buyer is a Limited Company, then we reserve the right to enter the Buyer's premises, or any other place where the goods might be, without notice in order to re-possess the goods. (2) Any such goods or part of goods so re-possessed may be re-sold without notice to the Buyer and without prejudice to our right to claim damages against the Buyer.

(g) We reserve the right at any time to charge interest on late payments with effect from the due date and on a day to day basis at a compound annual rate of 4% above Bank base lending rate from time to time. (h) In the event that the Buyer fails to make payment for the goods or fails to take delivery of any of the goods supplied by us, then all sums outstanding in respect of any goods supplied by us shall become due and payable immediately and we may in our absolute discretion and without prejudice to any other rights we may have (1) Suspend all future deliveries of the goods to the Buyer under the contract in question or under any other contract and/or terminate any such contract(s) without liability upon our part; and/or (2) Require payment at interest on all amounts due at a compound annual rate of 4% above Bank base lending rate for the time being prevailing from the date when payment for the goods in question became due to the date of actual payment.

## 7. DELIVERY AND RISK IN THE GOODS

(a) We will use our best endeavours to comply with our quoted delivery date but we will not be liable for any loss, damage, injury or expense, either direct or indirect and including but not limited to loss of profit or liability to third parties, which may be suffered by the Buyer by reason of late delivery of the goods from whatsoever cause the late delivery may arise.

(b) Although given in good faith the time for delivery mentioned in our quotation is intended as an estimate only and is not therefore to be treated as of the essence of the contract.

(c) The Buyer shall have no right to reject goods by reason of their being delivered other than at the quoted time.

(d) Delivery in the UK shall be as follows: (1) Goods sold "ex-works" will be dispatched in accordance with the buyer's instructions and the risk in such goods will pass to the Buyer from the time of loading at our works. (2) Goods sold "Delivered" will be dispatched by whatever means of transport we chose unless a specified method of transport has previously been agreed in writing. The risk in the goods will pass to the Buyer when they reach the destination named by the Buyer and before unloading. We will insure the goods for their full contract value against the risk of loss or damage in transit and the premium will be charged to the customer's account.

(e) Delivery overseas shall be by the appropriate method stated in our quotation, strictly interpreted in accordance with the definitions contained in INCOTERMS 1980, except that FOB shall mean FOB Liner Terms. (f) We shall not be liable for failure to deliver goods or to complete work or for failure to do so promptly if such failure arises due to force majeure or by reason of any delays occasioned by strikes, riots, lockouts or other labour trouble, war, fire, accident, mechanical failure, non-availability to us of supplied stock, parts, or materials. delay in delivery' to us of the goods or materials therefore by suppliers or other persons. Government action, legislation or regulation of any kind. Act of God, or any circumstances whatsoever outside our reasonable control and such delay or failure to deliver or to complete work on goods shall not affect the Buyer's obligation to pay for goods already delivered and work already completed.

## 8. CANCELLATION

The Buyer shall not be entitled to cancel the contract or any part thereof nor to require delay in its performance without our written consent which will only be given on terms which will indemnify us against all loss.

## 9. PACKING

Where goods are sold packed the extent of packing and/or protection necessary will be at our discretion. Any special packing stipulated by the Buyer will be charged to the Buyer's account Any goods sent unpacked at the Buyer's request will be at the risk of the Buyer. All packing materials are non-returnable.

## 10. STORAGE

If within fourteen days after we despatch our notification to the Buyer that goods sold Ex Works. FOB or FAS are ready the Buyer does not make arrangements for the collection or storage of the goods we shall be entitled to submit our sales invoice for payment and arrange storage either at our Works or elsewhere on the Buyer's behalf and all charges for storage and or insurance shall be for the account of the Buyer

## 11. LOSS OR DAMAGE IN TRANSIT

(a) We accept no liability for loss or damage in transit except in the case of goods sold 'DELIVERED' and in such case our responsibility will be limited to replacing or repairing the missing or damaged goods, or at our option, returning the purchase price. In any event no claim will be considered unless both the carriers and ourselves are notified in writing.

(b) In the case of damaged goods notification must be received in writing within three days of receipt other than on any proof of delivery note; and in the case of non-delivery within 14 days after the date of despatch as notified by us.

## 12. TRADE MARKS

The Buyer may not at any time erase, alter or deface our name or any of our trade marks or attach any other trade mark to the goods or juxtapose our trade marks with any other mark likely to cause confusion, unless in receipt of our express permission in writing.

## 13. COPYRIGHT

The copyright in our designs, data sheets, packaging and literature shall remain our property and no rights or licence (except as to the use for which our goods are supplied) shall be granted hereby whether express or implied.

## 14. IMPORT LICENCE

Where applicable the Buyer will be responsible for obtaining an import licence and for ensuring compliance with all regulations governing the admission of goods into the country of delivery.

## 15. EXPORT LICENCES

If equipment is to be exported particularly to Eastern Bloc countries an Export Licence may be required. It is the responsibility of the exporting agent to obtain the necessary clearance for exporting the equipment in the event of an order being placed with us, accompanied by a deposit, no refunds can be made in the event of export licences being refused.

## 16. HEALTH AND SAFETY

The Buyer shall be responsible for ensuring that all Statutory, Government or Local Authority regulations are complied with in relation to the operation of any goods purchased from us. Should any local regulations require amendments to the specification included in the supply contract, then the cost of any such amendments shall be charged to the account of the Buyer in addition to the original contract price. The Buyer shall ensure that all instructions, Handbooks, Notices and Warnings issued by us are properly understood and complied with at all times by all persons using the goods or working within close proximity to them, the Buyer being responsible for the translation of the English narrative supplied by us.

## 17. GOVERNING LAW

These conditions and any Contract between us and the Buyer shall be governed in all respects by the laws of England except that the Uniform Law on the international Sale of Goods shall not apply either in whole or in part. The Buyer shall submit to the jurisdiction of the English Courts.

## 18. COMPLAINTS

- (a) In lieu and any warranties conditions or liabilities implied by law our liability in respect of any defect in goods or for any loss, injury or damage attributable thereto shall be limited to, at our option (i) the supply of new goods in exchange for defective goods or (ii) repair at our premises of defective goods or (iii) payment at value of defective goods. Save as aforesaid and without prejudice thereto we shall not be liable for consequential or other damage howsoever arising.
- (b) Further we shall not be liable (i) Unless claim is detailed in writing within 12 months of invoice date; (ii) To accept return of goods until we have examined them; (iii) Unless Goods supplied are installed and demonstrated at the time of installation by the Company or installed as advised by the Company.
- (c) In respect that our goods include design and artistic work not capable of precise definition our obligation to supply goods to customers is limited to supplying goods reasonably in compliance with any specification forming part thereof.
- (d) It is understood that our goods have a limited life, the length of which is determined according to the amount of use; consequently goods used extensively will not last as long as goods used occasionally; customer accepts that he has no claim by reason of goods deteriorating through use. Play items fitted on an inflated bed are subject to abnormal wear and will not be the subject of any liability of any nature on the Company.
- (e) All goods returned to the Company for work under guarantee or work undertaken at the purchasers request and at his cost shall be returned in a clean and dry condition, properly rolled and/or packed. Should the Company judge that the goods are not in fit condition as to cleanliness the Purchaser will bear all costs of putting such goods in fit condition by removing them for cleaning or providing labour or the cost of labour to put the goods in fit condition.

## 19. SET-OFF AND COUNTER CLAIM

The Buyer shall not be entitled to withhold payment of any sums after they become due by reason of any right of set-off or Counter claim which the Buyer may have or allege to have or for any other reason whatsoever.

## 20. GENERAL

Each and every item herein set out (including subject to Condition 7) every stipulation as to time is hereby declared to be of the essence of every contract made between us and the Buyer.

## 21. APPLICABILITY OF THESE CONDITIONS

These conditions shall also apply to any future oral or written contract for the supply of goods and/or service by us to the Buyer save to the extent that such conditions are in future contracts specifically varied or excluded or are inconsistent with what is expressly agreed in any such future contract

### Application of Terms

Dryspace shall rent to any person ("the Renter") who accepts an Airbase quotation for the hire of goods or whose order for goods is accepted by Dryspace. Dryspace shall rent/hire the contract goods in accordance with any written quotation of Dryspace which is accepted by the renter, or any written order of the renter which is accepted by Dryspace, subject in either case to these. Conditions which shall govern the contract to the exclusion of any other terms and conditions printed or otherwise specified on the Renter's acceptance from the Renter to Dryspace relating to the contract. Where any terms or conditions specified by the Renter, conflict with these Conditions, any such conflicting terms shall be deemed to be severable and shall be severed from the acceptance of the quotation, order or other communication without otherwise affecting the validity thereof and any subsequent acceptance by Dryspace. The Renter's order made subject to these Conditions (stated above) shall constitute a counter offer by Dryspace on any quotation, the Renter's order or any other communication without otherwise affecting the validity thereof.

### Quotations

2.1 All quotations given by Dryspace will be valid for a period of 30 days from the date thereof and shall thereafter be subject to variations by Dryspace. In the event of the Renter purporting to accept Dryspace's quotation after the expiry thereof no binding obligation on Dryspace to supply the contract goods shall arise until acceptance by Dryspace, whether in writing or otherwise, of the Renter's order Dryspace reserves the right to reject the Renter's purported acceptance of Dryspace's quotation and to re—quote for the supply of goods.

2.2 No order which has been accepted by Dryspace may be cancelled by the Renter except with the agreement in writing of Dryspace and on terms that the Renter shall indemnify Dryspace in full against all loss (including loss of profit), costs (including the cost of all labour and materials used) damages, charges and expenses incurred by the Renter as a result of the cancellation.

### Variations

3.1 No variation of these Conditions or of any contract incorporating them shall be binding on Dryspace unless agreed in writing and signed for and on behalf of Dryspace. No employee or agent of Dryspace is authorised to make any representation concerning the goods unless the same is confirmed by Dryspace in writing. In entering into the contract for the rental/hire of the goods the Renter acknowledges that it does not rely on, or waive any claim for breach of contract or any such representation which is not confirmed by Dryspace in writing.

3.2 Any advice or recommendation given by Dryspace or its' employees or agents to the Renter or its' employees or agents as to the storage, application or use of the goods which is not confirmed in writing by Dryspace, is followed or acted upon entirely at the Renter's own risk and accordingly Dryspace shall not be liable for any such advice or recommendation.

3.3 Any typographical, clerical or other error or omission in any rental literature, quotation, price list, acceptable order, invoice or other document or information issued by Dryspace shall be subject to correction without any liability on the part of the Dryspace.

### Renter's Specification

4.1 The Renter shall be responsible to Dryspace for ensuring the accuracy of the terms of and order (including any applicable specification or accessories) submitted by the Renter and for giving Dryspace all of the necessary information relating to the goods for rental/hire within sufficient time to enable Dryspace to perform a contract in accordance with its terms. If the rental goods are to be manufactured or any process is to be applied to the goods by Dryspace in accordance with the specification submitted by the Renter, the Renter shall indemnify Dryspace against all loss, damages, costs and expenses ordered against or incurred by Dryspace in connection with or paid or agreed to be paid by Dryspace in settlement for any infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights

of any person which results from Dryspace' use of the Renter's specifications.

4.2 Dryspace reserves the right to make any changes in the specification of the rental goods which are required to conform with any applicable safety or other statutory requirements or, where the rental goods are to be supplied to Dryspace's specification, which do not materially affect their quality or performance.

## Price of Rental

5.1 Dryspace reserves the right by giving notice to the Renter at any time before delivery, to increase the price of the rental goods to reflect any increase in the cost to Dryspace which is due to any factor beyond the control of Dryspace (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of accessories requested, any change in delivery dates, quantities/structures or specifications requested by the Renter, or any delay caused by any instructions by the Renter or failure of the Renter to give Dryspace adequate information or instruction).

5.2 Except as otherwise stated in any quotation of Dryspace or as otherwise agreed in writing by Airbase, all rental prices are given by Airbase on an ex-works basis and, where the Renter agrees to pay for the goods to be delivered from Dryspaces premises to their desired location.

5.3 The price of the rental goods is exclusive of any applicable Value Added Tax which the Renter shall be additionally liable to pay to Dryspace.

## Payment Terms

6.1 Save as otherwise agreed in writing between Dryspace and the Renter, Dryspace shall be entitled to invoice the Renter for the price of the rental goods on or at any time after delivery unless the rental goods are to be collected by the renter or the Renter wrongfully fails to take delivery of the rental goods, in which event Dryspace shall be entitled to invoice the Renter for the price at any time after Dryspace has notified the Renter that the goods are ready for collection or (as the case may be) Dryspace has tendered delivery of the rental goods.

6.2 The Renter shall pay the price of the goods as per Dryspace's payment terms clearly stated on Dryspace's invoice, notwithstanding that delivery may not have taken place and the property of the goods has not passed to the Renter. The time of payment of the price shall be of the essence of the contract.

6.3 If the Renter fails to make any payment on the due date then, without prejudice to any other right or remedy available to Dryspace, dryspace shall be entitled to

(i) cancel the contract or suspend any further deliveries to the Renter;

(ii) appropriate any payment made by the Renter to such the contract rental goods (or goods supplied under any other contract between the Renter and Dryspace) as Dryspace may think fit (notwithstanding any purported appropriation by the Renter), and charge the Renter interest (both before and after any judgement) on the amount unpaid, at the rate of 1% per month.

## Delivery

7.1 Delivery of the contract rental goods can be made by the Renter collecting the goods from Dryspace's premises at any time after Dryspace has notified the Renter that the goods are ready for collection, or, if some other place for delivery is agreed by Dryspace delivering the goods to that place.

7.2 Any dates quoted for delivery of the goods are approximate only and Dryspace or its' representative shall not be liable for any delay in delivery of the goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by Dryspace in writing.

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

7.4 If the Renter fails to take delivery of the goods or fails to give Dryspace adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Renter's reasonable control or by reason of Dryspace's fault) then, without prejudice to any other right or remedy available to Dryspace, Dryspace may;

(i) store the goods until actual delivery and charge the Renter for the reasonable costs (including insurance) of storage; or

(ii) rent the goods at the best price readily obtainable (after deducting all reasonable storage and renting expenses) charge the Renter for any shortfall below contract price.

## Risk

Risk of damage to or loss of the goods shall pass to the Renter:

(i) in the case of goods to be delivered at Dryspace's premises, at the time when Dryspace notifies the Renter that the goods are available for collection; or

(ii) in the case of goods to be delivered otherwise than at Dryspace's premises, at the time of delivery or, if the Renter wrongfully fails to take delivery of the goods, the time when Dryspace has tendered delivery of goods.

## **Property**

9.1 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, property in the contract of rented goods shall not pass to the Renter until Dryspace has received in cash or cleared funds payment in full - the price of the contract rented goods and all other goods agreed to be rented by Dryspace to the Renter for which payment is due.

9.2 At all times the rented goods remain the property of Dryspace, who will exercise any right available to them to ensure return of goods in an appropriate condition.

It is the Renter's responsibility to ensure that the rented goods are properly insured and cover is appropriate to cover the Dryspace structure and all associated accessories covered in the rental agreement.

## **Warranties and Liability**

10.1 Dryspace warrants that the goods will correspond with their specification and will be free from defect in material and workmanship at the time of delivery provided that the above warranty is given by Dryspace subject to the following conditions.

(i) Dryspace shall be under no liability in respect of any defect in the goods arising from drawings design or specification supplied by the Renter.

(ii) Dryspace shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the contract rental goods has not been paid by the due date for payment;

(iii) the above warranty does not extend to parts, materials or equipment, not manufactured by Dryspace /Inflate, in respect of which the Renter shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer of those products.

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

10.3 Any claim by the Renter which is based on any defect in the quality or condition of the goods or their failure to correspond with specifications shall (whether or not delivery is refused by the Renter) be notified to Dryspace within (14) days from the date of delivery or (where the discovery of 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 Renter does not notify Dryspace accordingly, the Renter shall not be entitled to reject the contract rental goods and Dryspace shall have no liability for such defect or failure and the Renter shall be bound to pay the price as if the goods had been delivered in accordance with the contract. Dryspace's liability in respect of any claim based on any defect in the quality or condition of the goods or their failure to meet the specification notified to the Renter in accordance with these Conditions shall be limited to the free replacement of the contract goods or any defective part thereof or, at Dryspace's sole discretion.