

AMBIENT EFFICIENCY LIMITED (AEL) –TERMS & CONDITIONS OF SALE

CONTRACT

1. Unless otherwise agreed in writing by AEL, these conditions shall form part of any contract based on an acceptance of this offer and conditions inconsistent therewith shall, unless expressly agreed in writing by us, be deemed to override or vary these conditions notwithstanding their being proffered by you at a date later than this offer. These conditions shall apply not only to the present transaction but to all future business between us except in such cases as the contrary is expressly agreed in writing between us.
2. All technical data, physical dimensions, capacities and other properties and particulars including drawings are made in good faith as being approximately correct but deviation there from shall not vitiate the contract nor be made the basis of any claim against us.
3. The contract between ourselves and the buyer which is subject to these conditions is to be construed and to take effect as a contract made in England and in accordance with English law and any disputes arising there from shall be determined in the Courts of England or, at our discretion, shall be referred to a single mutually acceptable arbitrator in accordance with the provisions of the Arbitrator Act currently in force.

PRICES

4. All prices and terms quoted in our price list or catalogues etc. may be changed by us without notice. All orders are accepted for delivery at the price and on the terms ruling at the date of despatch and orders for commissioning and repair at prices and on terms ruling at the date of service.

PAYMENT

5. Unless expressly agreed between us in writing otherwise, all sales are payable net cash with order.
6. For agreed credit accounts our invoices are to be paid without 30 days from the date of the invoice and this time condition is of the essence of the contract. We reserve the right to charge interest on all overdue accounts.

PERFORMANCE

7. We will accept no liability for failure of our product to attain any performance figure unless we have specifically guaranteed that figure or unless that figure is quoted in our official catalogue or brochure in force at the date of delivery.

TITLE

8. All goods sold by us whether delivered or installed or not shall remain our sole property until all payments due for the sale or supply of such goods have been paid to us. Until property in goods sold or supplied passes to the buyer the buyer shall be responsible for any damage suffered by the goods and shall take all steps necessary to keep the goods in good condition and repair and shall keep the same in safe custody and shall not improperly use the same and shall not do anything which may lead to the goods being seized by way of distress or any legal process and shall keep the goods comprehensively insured against all risks in their full price and that our interest as unpaid seller is properly recorded in the policy.

Further, at all times whilst goods are in the buyers possession but whilst the title remains vested in us, the buyer shall notify us immediately if any defect arises in the condition of the goods and shall at all times allow us access to the goods for purposes of inspection and/or work to the goods and we shall be entitled (but not obliged) to carry out such work and render to the buyer such charges for such work as may be appropriate.

DELIVERY

9. Any date or period named by us for delivery is given in good faith as an estimate only. Whilst we will endeavour to despatch within the period stated, such date or period is not to be of the essence of the contract, and the buyer shall be bound to accept the goods ordered when available. Unless we have specifically given as undertaking in writing with an agreed sum as liquidated damages for late delivery and the buyer has suffered loss due to our delay, we shall not be liable in any way for labour costs or other expenditure incurred by the buyer in respect of late delivery however caused, and in any event any liability shall be strictly limited to the liquidated sum so specified.
10. If, having given to the buyer notice that the goods or any part of them are ready for despatch, we do not receive forwarding instructions to enable us to despatch within 14 days from the date thereof, the buyer shall take delivery or arrange for storage of the goods, failing which we shall be entitled to store the goods at the buyers risk and expense, and our invoice for the goods will become immediately due for payment.
11. Where the price includes delivery, we shall repair or replace free of charge goods damaged in transit provided the buyer sends to the carriers and ourselves written notification within 7 days in the case of damage or shortage and within 21 days of despatch in the case of non-delivery. Where the price does not include delivery or carriage being provided by the buyer, the buyer shall be responsible for any loss or damage in transit.
12. Carriage or postage on spare parts will be prepaid and charged in full to the buyer. Where express delivery is requested by the buyer all additional costs will be charged in full to the buyer.

13. The buyer shall inspect the goods immediately on delivery thereof and within 7 days after delivery give notice to us of any matter or thing by reason whereof the buyer may allege that the goods are not in accordance with the contract. If the buyer fails to give such notice the goods shall be deemed to be in all respects in accordance with the contract and the buyer shall accept and pay for the same accordingly. Any claims made by the buyer against us under the terms and conditions of our warranty (below) must be substantiated to our satisfaction and we may refuse to replace, repair or credit in respect of any alleged faulty part until sufficient evidence of the validity of the claim has been presented.

14. Where delivery is fixed by instalments, such instalments deliverable under the contract shall be deemed to be sold under separate contracts. Defective deliveries of one or more instalments shall not entitle the buyer to repudiate the contract with regard to any instalments remaining to be delivered.

15. If any packages are charged for and returnable, allowance will only be made for the same when they have been received back at our premises in good condition and carriage paid. Unless specified, packaging is not returnable.

16. It is our responsibility to load vehicles with goods at our works, but it is buyer's responsibility to offload all goods at their destination and to ensure that safe access to a level unloading area is available. Any damage sustained during offloading is the responsibility of the buyer.

WARRANTY

17. Our liability in respect of any defect in, or failure of, the goods, or for any loss, injury or damage attributed thereto is limited to the cost of replacement of the goods or the repairing of such defects which under proper use have appeared therein and arise solely from faulty design, materials or workmanship. In the case of radiators the warranty period shall be five years and one year for all other products from the date of original despatch provided always that such defective parts are promptly returned free of cost to our works. Repaired or replacement parts will be delivered by us to the buyer free of charge. Faulty goods shall not form the subject of any claim for labour costs or other expenditure incurred by the buyer and we shall not be responsible for any loss or damage arising out of any such fault.

18. Only in exceptional circumstances and by previous written agreement AEL will accept back for credit items which have been supplied against orders or which have been manufactured in accordance with your specifications but have not yet been delivered, provided that the goods to be returned are new, of standard design colour and unused. Restocking charges will be applied by us.

19. We specifically do not accept liability for financial or consequential losses, expenses or damage occasioned by defects in manufacturing or arising from any other cause.

20. The benefit of this warranty is given to the first retail purchaser of the goods and is not assignable.

BUYERS LIABILITY

21. Equipment is supplied only for the purpose for which it is specifically designed and which is clearly defined in the appropriate brochure or manual. We do not accept liability for damage or injury caused as a result of the equipment being used for any other purpose.

22. In view of the many factors outside our control in respect of performance of equipment, the buyer is entirely responsible for the type of equipment purchased and for the capacity of the equipment to deal with the proposed application. We do not accept liability for incorrect calculations, incompatible designs or advice which may result in the equipment supplied not being suitable for the purpose for which it was purchased.

INSOLVENCY OF BUYER

23. This clause applies if:

A: The buyer 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 purpose of amalgamation or reconstruction) or

B: an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the buyer, or

C: the buyer ceases, or threatens to cease, to carry on business, or

D: the seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the buyer and notifies the buyer accordingly.

If this clause applies then, without prejudice to any other right or remedy available to the seller, the seller shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the buyer, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and, if the price is not paid on demand the seller shall be entitled to enter the buyers premises or site where the goods are stored and repossess them.

Dated 1st JULY 2004

Ambient Efficiency Limited, 4 Berkeley Court, Manor Park, Runcorn, Cheshire WA7 1TQ

Tel: 01928 570068 Fax: 01928 579523

Company Registration: 1371177

VAT Registration: 832 5541 38