

## Vector Terms and Conditions of Sale

### 1. DEFINITIONS

The definitions and rules of interpretation in this condition 1 apply in these terms and conditions.

**Buyer:** the person, firm or company who purchases the Goods from Vector.

**Contract:** any contract between Vector and the Buyer for the sale and purchase of the Goods, incorporating these conditions.

**Goods:** the Vector Boiler Energy Management System or any goods agreed in the Contract to be supplied to the Buyer by Vector (including any part or parts of them).

**Purchase Order:** Vector's 'Pre-Purchase Agreement' form as signed by the Buyer and submitted to Vector or the Buyer's own purchase order submitted to and accepted by Vector in accordance with clause 2.3.

**Vector:** Vector Sales & Marketing Limited

### 2. APPLICATION OF TERMS

- 2.1 The Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 These conditions apply to all Vector's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of Vector (Julia Walker or Brendan Byrne).
- 2.3 Each Purchase Order submitted by the Buyer to Vector shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions. Upon Vector's written acceptance of such Purchase Order (including by email or fax), a contract shall come into existence to which these terms and conditions apply.
- 2.4 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.5 Any quotation is given on the basis that no Contract shall come into existence until a Purchase Order is signed by the Buyer and accepted by Vector (in accordance with clause 2.3).
- 2.6 Once a Purchase Order is accepted by Vector in accordance with clause 2.3, the Buyer may not cancel the order and will be charged the contract price.

**3. DESCRIPTION**

3.1 The quantity and description of the Goods shall be as set out in Vector's quotation or the Purchase Order.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by Vector and any descriptions or illustrations contained in Vector's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

**4. DELIVERY**

4.1 Unless otherwise agreed in writing by Vector, delivery of the Goods shall take place at the Buyer's place of business.

4.2 Any dates specified by Vector for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice.

4.3 Subject to the other provisions of these conditions Vector shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods, nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 90 days.

4.4 If for any reason Vector is unable to deliver or fit the Goods on time because the Buyer has not provided appropriate instructions, documents, licences, authorisations or access to the premises, Vector shall be entitled to charge the Buyer £55 per hour from the delivery time agreed between the parties until the time that the Buyer accepts delivery. This represents the true cost to Vector incurred by such delay.

4.5 Vector may deliver the Goods by separate instalments as agreed with the Buyer. Each separate instalment shall be Invoiced and paid monthly and paid for in accordance with the provisions of the Contract.

4.6 Each instalment shall be a separate Contract and no termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

**5. RISK/TITLE**

5.1 The Goods are at the risk of the Buyer from the time of delivery.

5.2 Ownership of the Goods shall not pass to the Buyer until Vector has received in full (in cash or cleared funds) all sums due to it in respect of:

- (a) the Goods; and
- (b) all other sums which are or which become due to Vector from the Buyer on any account.

5.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

- (a) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- (b) maintain the Goods in satisfactory condition and keep them insured on Vector's behalf for their full price against all risks to the reasonable satisfaction of Vector.

5.4 The Buyer grants Vector, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

5.5 On termination of the Contract, howsoever caused, Vector's (but not the Buyer's) rights contained in this condition 5 shall remain in effect.

## **6. PRICE**

6.1 Unless otherwise agreed by Vector in writing, the price for the Goods shall be the price set out in Vector's written quote as issued to the Buyer.

6.2 The price for the Goods excludes value added tax.

## **7. PAYMENT**

7.1 Payment of the price for the Goods is due in pounds sterling no later than 30 days from the date of the invoice issued to the Buyer by Vector.

7.2 No payment shall be deemed to have been received until Vector has received cleared funds.

## **8. QUALITY**

8.1 Subject to clauses 8.2-8.5, Vector warrants that (subject to the other provisions of these conditions) on delivery, and for a period of 36 months from the date of delivery, the Goods shall:

- (a) be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- (b) be reasonably fit for purpose.

8.2 Vector shall not be liable for a breach of the warranties in condition 8.1 unless:

- (a) the Buyer gives written notice of the defect to Vector; and

- (b) Vector is given a reasonable opportunity after receiving the notice to examine such Goods.

8.3 Vector shall not be liable for a breach of the warranties in condition 8.1 if:

- (a) the Buyer makes any further use of such Goods after giving such notice; or
- (b) the defect arises because the Buyer failed to follow Vector's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods (including all directions and information provided on the Product Information Sheet which is provided to the Buyer on installation); or
- (c) the Buyer or any other person alters or repairs such Goods without the written consent of Vector.

8.4 Subject to condition 8.2 and condition 8.3 if any of the Goods do not conform with the warranties in condition 8.1 Vector shall at its option repair or replace such Goods (or the defective part) and shall have no further liability for breach of the warranties in condition 8.1.

8.5 Any Goods replaced shall belong to the Buyer and any repaired or replacement Goods shall be guaranteed for the remainder of the unit guarantee term as set out in clause 8.1.

## **9. LIMITATION OF LIABILITY**

9.1 Subject to condition 8.1, all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

9.2 Nothing in these conditions excludes or limits the liability of Vector:

- (a) for death or personal injury caused by Vector's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for Vector to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.

9.3 Subject to condition 9.1 and condition 9.2:

- (a) Vector's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- (b) Vector shall not be liable to the Buyer for loss of profit, loss of business, or goodwill in each case whether direct, indirect or consequential, or any

claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

**10. ASSIGNMENT**

10.1 Neither party shall be entitled to assign the Contract or any part of it without the prior written consent of the other party.

**11. FORCE MAJEURE**

Vector reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Vector including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to Vector to terminate the Contract.

**12. GENERAL**

12.1 Each party hereby agrees to keep confidential (both before, during and after the Term) the terms of the Contract and all information, whether written or oral, concerning the business or affairs of the other that it has received or obtained from the other or may receive or obtain from the other and shall not use the same without the prior written consent of the disclosing party for any purpose except as expressly permitted under the Contract. This obligation will not apply in the case of any disclosure required by law, or to information which is in the public domain (other than as a result of a breach of any confidentiality obligation) or to information which is independently developed by a party without reference to the other's confidential information.

12.2 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

12.3 The Contract sets forth the entire agreement between the parties at the date thereof and supersedes any prior written or oral agreement between them with respect to the subject matter hereof. A person who is not a party to the Contract has no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of the Contract.

- 12.4 The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.
- 12.5 Any condition intended to survive the termination or expiry of the Contract shall survive such termination or expiry.
- 12.6 No provision of the Contract may be amended, modified, discharged or terminated other than by the express written agreement of the parties.
- 12.7 If a provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected. If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 12.8 The Contract shall be governed by and construed in accordance with English law. Any claim, dispute or difference which may arise out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the English courts.