

Crystal Air Terms and Conditions of Sale

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

“**Buyer**”, the person who accepts the Crystal Air Quotation Document in accordance with these Conditions which said expression shall, include where the context so admits or requires, any member of the Design Team who employs Crystal Air to install the Goods at a building site ;

“**Conditions**”, the terms and conditions of sale of the Goods set out in this document, including any special conditions agreed in Writing between the Buyer and Crystal Air, which shall govern the Contract to the exclusion of any other terms and conditions unless otherwise expressly agreed;

“**Construction Contracts Act 2013**”, an act to regulate payments under construction contracts and to provide for related matters.

“**Contract**”, the contract for the sale and purchase of the Goods between Crystal Air and the Buyer which is governed by these Conditions;

“**Contracts Manager**”, the Contracts Manager appointed by Crystal Air to monitor and co-ordinate the delivery and installation of the Goods in accordance with these Conditions;

“**Crystal Air**”, Crystal Air Limited, company registration number 265620, having its registered office at Unit 3 Butterstream Business Park, Clane, Co. Kildare;

“**Certificate**”, the certificate issued by the Design Team in accordance with Clause 4.2 confirming the amount due to Crystal Air by the Buyer on foot of a Payment Claim;

“**Crystal Air Quotation Document**”, any written quotation by Crystal Air for the sale of Goods;

“**Date of Practical Completion**”, the date of commissioning of the Goods;

“**Defects Liability Period**”, the period commencing on the Date of Practical Completion and expiring on the earlier of (a) 12 calendar months after the Date of Practical Completion or (b) 18 months from delivery of goods to site or (c) such later date as maybe agreed between the parties in Writing;

“**Design Team**”, the building professionals engaged by the Buyer, and such engagement to be expressly communicated by the Buyer to Crystal Air, in connection with a construction project relating to a building site, including without generality to the foregoing, project managers, architects, structural engineers or electrical engineers and reference to “Design Team shall where the context so admits or requires mean anyone or more of these;

“**Due Date**”, the earlier of (a) the date which is 30 calendar days from the date Crystal Air invoices the Buyer for the Goods in accordance with these Conditions or (b) the date

on which the installation of the Goods is 95% completed by Crystal Air at the Premises in accordance with these Conditions, save in the case of Clause 4.2 where the Due Date shall be fourteen Working Days following the issue of the Certificate;

“Force Majeure”, an event or circumstance which is beyond the reasonable control of Crystal Air, including, without limitation:-

- (a) acts of God or acts of nature without the interference of any human agency, including hurricanes, typhoons, tornados, cyclones, other severe storms, lightning, floods, earthquakes, volcanic eruptions; or
- (b) fires and explosions caused wholly or in part by human agency; or
- (c) acts of war; or
- (d) riots or other civil commotion, terrorism including hijacking, sabotage, bombing, murders, assaults, kidnapping; or
- (e) industrial strikes, national strikes or lock outs or other industrial action; or
- (f) action or inaction of any kind on the part of any governmental, parliamentary or local authorities; or
- (g) difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery; or
- (h) Pandemics such as Covid 19.

“Goods”, all heating ventilation and air conditioning products, including, but not limited to, indoor and outdoor air conditioning units, heat pumps, CRAC units, air handling equipment and ventilation systems and other materials, items and goods associated mechanical services products (including installment of the Goods or any part of them) supplied by Crystal Air in accordance with these Conditions;

“Manuals”, the manuals or handbooks, certificates or other documents relating to the operation, use, cleaning, maintenance or repair of the Goods;

“Manufacturer”, a manufacturer of the Goods including without limitation, Mitsubishi Electric, Panasonic, Daikin, Pluss, Airedale, HiRef, Camfil and EDPAC;

“Manufacturers Specifications”, includes any specifications, plans, drawings and warranties of a Manufacturer relating to the Goods;

“Method Statement”, the method statement of Crystal Air for the installation of the Goods, available to the Buyer upon request;

“Purchase Order”, any written order of the Buyer for the purchase of Goods from Crystal Air;

“Prescribed Rate”, ECB Base Rate plus 4%;

“**Premises**”, the premises specified in the Crystal Air Quotation Document which said expression shall include a building site where the context so admits or requires;

“**Price**”, the price of the Goods specified in Crystal Air Quotation Documents together with any revisions or increase in the Price in accordance with these Conditions and any VAT payable thereon;

“**Payment Claim**”, a detailed progress statement of the Goods delivered and installed which specifies the total value of the Goods delivered and installed to a building site up to the date of the Progress / payment Claim;

“**Prompt Payment Discount**”, a discount of up to a maximum of 10% of the Price, offered by Crystal Air to the Buyer subject strictly subject to Clause 5 of these Conditions;

“**Retention Amount**”, an amount equal to a maximum of 5% of the Price (exclusive of VAT);

“**Safety Regulations**”, the Health Safety and Welfare at Work Act 1989-2005, the Safety Health and Welfare at Work Act 2005 and any other regulation, instrument, direction, scheme or permission made thereunder or deriving validity therefrom, including without limitation, the Safety Health and Welfare at Work (Construction) Regulations 1995-2006, the Safety Health and Welfare at Work (Construction) Amendment Regulations 2003-2010 and any statutory modifications thereof;

“**Sale of Goods Acts**” the Sale of Goods Act 1893 and the Sale of Goods and Supply of Services Act 1980;

“**Specification**” includes any plans, construction, drawings, data or other information, or any revisions at any time thereto, relating to the location and installation of the Goods by Crystal Air as may be agreed in Writing by the Buyer with Crystal Air;

“**VAT**”, value added tax, as such term is defined in the Value Added Tax Consolidation Act 2010 as same may be modified or amended from time to time including all interest and penalties chargeable under such legislation;

“**Working Day**”, a day on which clearing banks are open for business in Dublin (public and bank holidays excepted); and

“**Writing** or “**Written**”, includes facsimile transmission, electronic mail and post, and any documents delivered by hand to the Premises.

2. INTERPRETATION

- 2.1 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.
- 2.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

- 2.3 Words of the masculine gender include the feminine and neuter genders, words denoting natural persons include corporations and firms, and all such words shall be construed interchangeable in that manner and “person” shall, where the context so admits, include all such entities.
- 2.4 References to a clause or schedule are, unless the context otherwise requires, references to a clause of or schedule to these Conditions.
- 2.5 Words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done, and words placing a party under a restriction include an obligation not to permit infringement of the restriction.
- 2.6 Any reference to a statute or statutes (whether specifically named or not) shall include any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, permissions and plans for the time being made, issued or given thereunder or deriving validity therefrom.

3. ORDERS AND QUOTATIONS

- 3.1 Crystal Air shall sell and the Buyer shall purchase the Goods for the Price in accordance with the Crystal Air Quotation Document. If the Buyer agrees and accepts the Crystal Air Quotation Document and these Conditions the Buyer shall issue a Purchase Order to Crystal Air within 60 calendar days of the date of the Crystal Air Quotation Document. If the Purchase Order is not issued within the said 60 calendar days, Crystal Air shall be entitled to issue a revised Crystal Air Quotation Document. No Goods shall be deemed ordered nor shall any installation work commence on the Premises before a Purchase Order is issued by the Buyer.
- 3.2 The Purchase Order must be dated and signed by the Buyer and contain the Price and the final quotation number specified in the Crystal Air Quotation Document. Crystal Air shall not be held liable for any delays in the project programme caused by the Buyer’s delay in issuing a Purchase Order and the Buyer shall be solely liable for any additional third party costs incurred due to the late issue of a Purchase Order.
- 3.3 The Buyer shall not be entitled to modify or seek to modify the Crystal Air Quotation Document in the Purchase Order. Any such modification will be null and void. Any change or modification to the Crystal Air Quotation Document will require the prior agreement of Crystal Air in Writing and a revised Crystal Air Quotation Document and where applicable a revised Price.
- 3.4 No Purchase Order submitted by the Buyer shall be deemed to be accepted by Crystal Air unless and until accepted in Writing by a duly authorised representative of Crystal Air within fourteen Working Days of the date of the Purchase Order.
- 3.5 A Purchase Order which has been accepted by Crystal Air may not be cancelled by the Buyer except with the prior agreement in Writing of Crystal Air. The Buyer shall indemnify Crystal Air in full against all losses (including loss of profit), costs (including the cost of all labour used), damages, charges and expenses incurred by Crystal Air as of result of cancellation of an accepted Purchase Order.

3.6 The Buyer shall be responsible to Crystal Air for ensuring the accuracy of the terms of the Purchase Order and for giving Crystal Air any necessary information relating to the Goods to enable Crystal Air to perform the Contract in accordance with these Conditions.

3.7 The Price shall not include the following, without limitation:-

3.7.1 the cost or Specification for any modification to ductwork or grilles on either the primary or secondary ventilation systems, plenum boxes, grilles, external pipe cladding, paint treatment or covers on piping or insulation;

3.7.2 builders work, mains power wiring including isolators and the tails for termination from spurs and at units, earthing and bonding of cable trays or piping, conduits or containment for controls, builders discount, natural gas pipework, roof supports, seismic supports, removal of packaging from the Premises or surrounding site;

3.7.3 cranes, genie lifts, MEWP's or other access and safety equipment required by Crystal Air to comply with the Safety Regulations, PSCS, BCAR, Design professional indemnity, SPA paperwork other than Crystal Air controlled, spotters, hot works watch men and non productive attendance at white board and other stand downs on site;

3.7.4 tenant billing solutions or metering systems, wiring, windows based personal computers, energy meters for indoor and outdoor units and the like;

3.7.5 drain pans under condensers, condensate in any other material except PVC, water or refrigerant leak detection of any kind;

3.7.6 ventilation / vent works for condenser locations or any other works associated with A2L refrigerants for indoor or outdoor units;

3.7.7 flue extension required for condensers;

3.7.8 work done outside normal working hours; or

The Buyer shall pay and discharge all additional costs arising in respect of any of the foregoing and agrees to indemnify and keep Crystal Air fully indemnified in respect of such costs.

3.8 Crystal Air shall be entitled to access the Premises to carry out a full survey of the Premises before the Crystal Air Quotation Document is issued. [If Crystal Air does not carry out a survey of the Premises until after the issue of the Crystal Air Quotation Document, Crystal Air shall, where required, issue an additional Crystal Air Quotation Document which shall include the cost of any additional work arising from a survey of the Premises.] The Borrower shall pay and discharge all such costs and shall indemnify and keep Crystal Air fully indemnified in respect thereof.

3.9 The Crystal Air Quotation Document is based on standard ceiling heights and access. Crystal Air shall be entitled to issue an additional Crystal Air Quotation Document in respect of all additional costs incurred by Crystal Air arising from ceiling heights being greater than 3 meters in the event of limited access to ceilings by virtue of cross beams

below ceiling height and the Buyer shall indemnify and keep Crystal Air indemnified in this regard. The additional costs will include charges for the dismantling and adjustments of scaffolding or other working platforms.

4. PRICE OF THE GOODS AND SERVICES AND CONDITIONS OF PAYMENT

4.1 Save as provided in Clause 4.2 below, Crystal Air may invoice the Buyer on or at any time after the Buyer's Purchase Order is accepted in writing by a duly authorised representative of Crystal Air. Each invoice shall quote the number of the Crystal Air Quotation Document in part or in full.

4.2 Where a Buyer employs Crystal Air as a nominated sub-contractor, to install the Goods at a Premises, and the contract is a "Construction contract" the terms as per "Construction Contracts Act 2013" shall apply:-

4.2.1 The Buyer shall procure the issue of a Certificate within five Working Days of production by Crystal Air of a Payment Claim. Upon receipt of a Certificate, Crystal Air shall issue an invoice to the Buyer for the relevant amount. The Buyer shall honour each Certificate by paying the amount of the invoice within 45 days from payment claim date, subject only to the retention described in clause 4.2.2 below, but without any other deduction, set-off or counter claim whatsoever.

4.2.2 Subject to clause 4.2.4 below, the Buyer shall, be entitled to retain the Retention Amount for the duration of the Defects Liability Period. In the event that any verifiable defects in the Goods appear before the expiration of the Defects Liability Period, the Buyer must notify Crystal Air in writing of any verifiable defects on or before the expiry of the Defects Liability Period. In the event that the Buyer fails to notify Crystal Air as aforesaid, Crystal Air shall have no liability whatsoever to the Buyer in respect of such defects.

4.2.3 In the event of a dispute arising out of a Claim or issue of the Certificate, the Buyer and Crystal Air shall co-operate and act in good faith to procure the issue of the Certificate within 10 Working Days following the date of a payment Claim.

4.2.4 The Buyer shall pay 50% of the Retention Amount to Crystal Air on the Date of Practical Completion without any deduction, set-off or counter-claim whatsoever. The Buyer shall pay the remainder of the Retention Amount to Crystal Air without any deduction, set-off or counter-claim on the date that is the earlier of 10 Working Days after the expiry of the Defects Liability Period or the date on which Crystal Air makes good any verifiable defects duly notified to it in accordance with clause 4.2.2.

4.2.5 Where a valid claim is made by the Buyer in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet the Specification, is notified to Crystal Air in accordance with these Conditions, Crystal Air shall be entitled to repair or replace the Goods (or the part in question) or at Crystal Air's sole discretion, refund to the Buyer the Price of the Goods (or where appropriate a proportionate part of the Price) but Crystal Air shall have no further liability whatsoever to the Buyer.

- 4.2.6 The Retention Amount shall be held by the Buyer on trust for Crystal Air until paid in full in accordance with this clause 4.2.
 - 4.2.7 Where any amount due under a construction contract is not paid in full by the day on which the amount is due, the executing party may suspend work under the construction contract by giving notice in writing at least 7 days before the proposed suspension is to begin.
- 4.3 Unless otherwise stated in the Crystal Air Quotation Document and subject to the provisions of Clause 4 of these Conditions, the Buyer shall pay, without deduction or set-off or counterclaim, the Price of the Goods by the Due Date. Time shall be of the essence in this regard.
- 4.4 The Price shall be payable in Euro and, unless otherwise so stated, shall be:
- 4.4.1 exclusive of any applicable VAT (which shall be payable by the Buyer subject to receipt of a VAT invoice);
 - 4.4.2 inclusive of all charges for transfer and packaging and delivery of the Goods to the Premises and any duties, imposts or levies other than VAT;
 - 4.4.3 inclusive of any Prompt Payment Discount agreed in Writing with Crystal Air subject to the provisions of clause 5 of these Conditions.
- 4.5 The Buyer shall pay VAT (if any) on the purchase of the Goods hereunder to Crystal Air upon delivery of an appropriate VAT invoice to the Buyer.
- 4.6 Crystal Air reserves the right, by giving notice in Writing to the Buyer at any time before completion of the installation of the Goods, to increase the Price of the Goods to reflect any increase in the cost to Crystal Air which is due to any or all of the following:-
- 4.6.1 Force Majeure;
 - 4.6.2 any change of delivery dates, quantities or Specifications for the Goods which is requested by the Buyer;
 - 4.6.3 any delay caused by any instructions of the Buyer or failure by the Buyer to give adequate instructions or information to Crystal Air to enable it to perform the Contract;
 - 4.6.4 any delay caused by the Buyer failing to make the Premises available for the carrying out of a survey of the Premises and/or the installation of the Goods at the Premises;
 - 4.6.5 any additional works which come to light when carrying out a survey of the Premises;

- 4.6.6 any additional works which comes to light when installing the Goods, such as dealing with ceiling heights greater than 3 meters or low level ceilings or ceilings with limited access;
- 4.6.7 any increase in labour cost incurred by Crystal Air;
- 4.6.8 currency fluctuations;

Any revisions to the Price shall be recorded in a revised or additional Crystal Air Quotation Document at the sole discretion of Crystal Air.

- 4.7 Without prejudice to any other right, remedy or power herein contained or otherwise available to Crystal Air, if the Price or any other sum or sums of money payable to Crystal Air under the Contract remains unpaid after the Due Date, Crystal Air shall charge the Buyer interest thereon at the Prescribed Rate from and including the Due Date to the date of payment to Crystal Air (both before and after any judgment).
- 4.8 Any Buyer who does not have an existing account with Crystal Air shall pay a deposit of 30% of the Price (the "Deposit") prior to the delivery of the Goods and shall pay the balance of the Price in accordance with these Conditions on or before the Due Date unless otherwise agreed by the parties in Writing.
- 4.9 In the event of cancellation or termination of the Contract in accordance with these Conditions Crystal Air shall, without prejudice to other rights and remedies to which Crystal Air may be entitled under this Contract or at common law or otherwise, be entitled to forfeit the Deposit on the giving of 10 Working Days notice to the Buyer. In the event of cancellation or termination of the Contract where Crystal Air has delivered the Goods to a building site, the Buyer shall pay a restocking charge equivalent to 15% of the Price to the Buyer without any deduction, set-off or counterclaim.
- 4.10 If the Buyer fails to pay the Price or any other sum or sums of money payable to Crystal Air under the Contract or any payment due on the Due Date, then Crystal Air shall be entitled to:-
 - 4.10.1 suspend or cancel the Contract; and / or
 - 4.10.2 appropriate any payment made by the Buyer for such of the Goods (or Goods supplied under any other contract between the Buyer and Crystal Air), including the Deposit (if any) paid by the Buyer, as Crystal Air may in its absolute discretion think fit; and / or
 - 4.10.3 the Buyer hereby irrevocably grants permission to Crystal Air to enter onto the Premises upon giving of 48 hours notice, to recover the Goods and the Buyer agrees to indemnify and keep Crystal Air indemnified against all costs and expenses incurred by Crystal Air in connection therewith;
- 4.11 The cost of any returnable packing material will be charged to the Buyer in addition to the Price.
- 4.12 The Buyer shall pay and indemnify Crystal Air against all costs, fees, charges, disbursements and expenses incurred by Crystal Air in relation to the recovery, attempted

recovery and collection of the Price or any other amounts due by the Buyer to Crystal Air under these Conditions.

- 4.13 The billing address for the Buyer is the address specified in the Crystal Air Quotation Document. The Buyer shall immediately notify Crystal Air in Writing of any change to the billing address in order to ensure there is no delay in billing or payment of any invoices by the Buyer.

5 PROMPT PAYMENT DISCOUNT (IF APPLICABLE)

- 5.1 In order to avail of a Prompt Payment Discount Crystal Air must receive cash or cleared funds for the full amount of the Price and the price specified in any other invoices issued to the Buyer for additional work done in accordance with the Contract, by the Due Date. The Prompt Payment Discount applicable to the sale of Goods shall be specified in the Crystal Air Quotation Document, however, all invoices issued for the Goods shall be for the full amount of the Price.
- 5.2 The Buyer shall not be entitled to a Prompt Payment Discount if the Buyer fails to pay the Price and other sums due on foot of invoices issued to the Buyer by the Due Date or in the event the Buyer has failed to observe or perform these Conditions in any respect.

6 SPECIFICATIONS

- 6.1 The quantity, quality and description of the Goods shall, subject as provided in these Conditions, be as specified in the Crystal Air Quotation Document and/or in any applicable Specification.
- 6.2 No variation to the Specification shall be agreed or binding unless and until a revised Crystal Air Quotation Document is issued containing the variations and the Buyer's Purchase Order in respect thereof is accepted in writing by a duly authorised representative of Crystal Air. For the avoidance of doubt, it is not permitted to record any changes or modifications to the Specifications on the original Purchase Order.

7 ACCESS AND INSTALLATION

- 7.1 The Buyer shall ensure that the Premises will be available for all work to be carried out in relation to the installation of the Goods by Crystal Air which shall be carried out during normal working hours during the Working Days and shall fully indemnify Crystal Air against all cost, loss or expense suffered in this regard.
- 7.2 The Buyer shall ensure ease of access to the Premises for Crystal Air, its employees, agents and contractors and their vehicles and equipment as may be required by Crystal Air to enable it supply the Goods in accordance with these Conditions.
- 7.3 Prior to the installation of the Goods, the Buyer shall discuss and agree the following items with the Contracts Manager:-
- 7.3.1 the co-ordination of mechanical and electrical services and any other services;
 - 7.3.2 the Method Statement;

- 7.3.3 the power supply to the Goods;
 - 7.3.4 the position of the remote controller for the Goods;
 - 7.3.5 programme of works and project hours of installation;
 - 7.3.6 the Specification. The Buyer acknowledges that Crystal Air will require up to 5 Working Days to complete the Specification and the necessary Health and Safety documentation for the installation of the Goods; and
 - 7.3.7 construction details which may not be clear from the Specifications.
- 7.4 Prior to the installation of the Goods, the Buyer shall remove or procure the removal of the ceiling grid or tiles at the Premises and shall reinstate or procure the reinstatement of the ceiling grid or tiles at the Premises following completion of the installation of the Goods at the Buyer's own cost. The Buyer acknowledges and agrees that Crystal Air shall have no liability whatsoever to the Buyer in this regard.
- 7.5 The Buyer shall prior to the execution of the installation works, point out to the Contracts Manager the location of works, pipes, ducts or services which run near the location where the installation works are to be carried out by Crystal Air.

8 DELIVERY AND COMMISSIONING

- 8.1 The Buyer shall not be entitled to pledge, create a lien over or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Crystal Air, but if the Buyer does so or purports to do so all money owing by the Buyer to Crystal Air shall (without limiting any other right or remedy of Crystal Air) forthwith become due and payable.
- 8.2 The commissioning of the Goods will be suspended by Crystal Air unless Crystal Air has received in cash or cleared funds of the Price less any Retention Amount, unless otherwise agreed between Crystal Air and the Buyer in Writing. The Buyer hereby authorises Crystal Air to enter the Premises and decommission the Goods, if this 90% of the Price has not been received on the date the Goods are commissioned.
- 8.3 Crystal Air shall only furnish the Manuals and Health and Safety documentation to the Buyer when Crystal Air has received in cash or cleared funds the full amount of the Price of the Contract and any variations and full settlement of all unpaid invoices.
- 8.4 Where the Goods are to be delivered in installments, failure by Crystal Air to deliver any one or more of the installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 8.5 If the Buyer fails to take delivery of the Goods or fails to give Crystal Air adequate delivery instructions at the time state for delivery then, Crystal Air may (without liability):-

- 8.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage and the Price of the goods shall become due and payable from the date the Goods are placed in storage; or
- 8.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the Price under the Contract.

9 WARRANTIES AND LIABILITY

- 9.1 Crystal Air shall transfer and assign all available warranties from the manufacturers or suppliers of the Goods or any part thereof in so far as such warranty or warranties are capable of assignment or transfer and only where the Buyer has paid the Price in full by the Due Date. As Crystal Air does not manufacture the Goods sold hereunder, Crystal Air does not furnish any warranties or conditions in relation to the Goods or any part thereof. Accordingly, all warranties, guarantees, conditions in relation to Goods, whether express or implied by the Sale of Goods Acts, common law or otherwise, are hereby expressly excluded to the extent permitted by law.
- 9.2 Crystal Air shall be under no liability in respect of:-
 - 9.2.1 any defect in the Goods; or
 - 9.2.2 in respect of which the Buyer shall duly be entitled to the benefit of any such warranty or guarantee as may be given by the Manufacturer in respect of the Goods; or
 - 9.2.3 any defect arising from the misuse, alteration or repair, willful damage, negligence, abnormal working conditions, fair wear and tear, failure on the Buyer's part to follow the Manuals or failure on the Buyer's part to follow Crystal Air's Written instructions in relation to use, operation, cleaning and maintenance of the Goods.
- 9.3 Except in respect of death or personal injury caused by Crystal Air's negligence or the negligence of its employees, Crystal Air shall not be liable to the Buyer for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise) costs, expenses or other claims for compensation whatsoever which arise out of or in connection with the installation of the Goods or their use by the Buyer. The entire liability of Crystal Air under or in connection with the Contract shall not in any event exceed the Price paid for the Goods.
- 9.4 Any advice or recommendation given by Crystal Air or its employees or agents to the Buyer or its employees or agents as to the application or use of the Goods which is not confirmed in Writing by Crystal Air is followed or acted upon at the Buyer's own risk, and accordingly, Crystal Air shall not be liable for such advice or recommendation which is not so confirmed.
- 9.5 Only a director of Crystal Air may make representations regarding the Goods and such representation must be in Writing.

- 9.6 Crystal Air shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods, if the delay or failure is due to Force Majeure.

10 BUYER'S RESPONSIBILITIES

- 10.1 The Buyer shall comply with the Safety Regulations and shall take all such precautions and measures as may be necessary for the protection or the avoidance of injury or damage to the Buyer, its employees, the Buyer's own property and its furniture, fixtures and fittings and belongings and the Premises during the execution of the installation of the Goods and Crystal Air shall have no responsibility whatsoever or liability to the Buyer in this regard.
- 10.2 Without prejudice to the generality of Clause 10.1, the Buyer shall remove all articles of value from the immediate vicinity in which the installation of the Goods are being carried out prior to the execution of the installation works. The Buyer agrees and acknowledges that Crystal Air shall have no responsibility or liability for any damage whatsoever and howsoever caused to any article of articles situated in the vicinity of the place where the installation works are to be executed whilst the works are being executed.
- 10.3 The Buyer shall co-operate fully with Crystal Air in relation to the installation of the Goods.
- 10.4 The Buyer covenants not to do or omit or suffer to be done or omitted any act matter or thing whatsoever which would delay or hinder Crystal Air in completing the installation of the Goods.

11 BANKRUPTCY / INSOLVENCY OF THE BUYER

- 11.1 Notwithstanding any provision to the contrary contained in these Conditions or in any previous agreement or arrangement to the contrary between Crystal Air and the Buyer, if any of the following events shall occur, then, Crystal Air shall be entitled to cancel or suspend the Contract without liability to the Buyer and the entire Price shall become immediately due and payable to Crystal Air in respect of all goods delivered and installed:-
- 11.1.1 the Buyer being a body corporate has a winding-up petition presented against it or passes a winding-up resolution (other than for the purpose of a bona fide amalgamation or reconstruction) or resolves to present its own winding-up petition or is wound up (whether in Ireland or elsewhere) or a Receiver or Manager is appointed to any of the Buyer's property or assets or the Buyer presents a petition for the appointment of an Examiner; or
- 11.1.2 the Buyer ceases, or threatens to cease to carry on the business; or
- 11.1.3 the Buyer, being an individual, or if more than one individual, then any one of them has a bankruptcy petition presented against him or adjudged bankrupt (whether in Ireland or elsewhere); or

11.1.4 the Buyer suffers any distress, execution or other legal process to be levied on any of its/his assets; or

11.1.5 Crystal Air apprehends or is of the opinion that any of the events mentioned above is about to or is likely to occur in relation to the Buyer and notifies the Buyer accordingly.

12 RISK OF PROPERTY

12.1 Risk of loss or damage to the Goods shall pass to the Buyer at the time of delivery to the Buyer.

12.2 Notwithstanding delivery and the passing of risk in the Goods to the Buyer on delivery, all Goods shall remain the property of Crystal Air until such time as all sums due and owing to Crystal Air by the Buyer have been discharged in full by the Buyer.

12.3 For the avoidance of doubt the amount due and owing as per clause 12.2 shall be the amount due and owing by the Buyer to Crystal Air at the date upon which Crystal Air receives payment in cash or cleared funds.

12.4 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as Crystal Air's agent and shall keep the Goods protected and insured and identified as Crystal Air's property.

12.5 Until such time as the title and property in the Goods passes to the Buyer, Crystal Air shall be entitled at any time to require the Buyer to deliver up the Goods to Crystal Air and to enter upon the Premises or the premises of any third party where the Goods are stored and repossess the Goods and the Buyer shall indemnify and keep Crystal Air fully indemnified against all costs, expenses and loss incurred by Crystal Air in this regard.

12.6 The Buyer shall not be entitled to withhold payment of any amount payable under the Contract to Crystal Air because of any disputed claim of the Buyer in respect of an alleged breach of the Contract.

13 GENERAL

13.1 The Buyer shall not be entitled to assign, delegate, sub-contract or otherwise transfer the benefit or burden of the Contract in whole or in part without the prior Written consent of Crystal Air.

13.2 The Crystal Air Quotation Documentation, the Purchase Order and these Conditions constitute the entire agreement between the Buyer and Crystal Air with respect to the subject matter thereof and shall take precedence over all previous agreements and understandings between the parties with respect hereto whether written or oral and whether express or implied.

13.3 The Contract and these Conditions may not be modified except by an instrument in writing signed by a duly authorised representative of the Buyer and a director of Crystal Air. In the event of any conflict between these Conditions and any subsequent modifications thereto, these Conditions shall prevail.

- 13.4 If any provision of these Conditions is held by any court or other competent authority to be void, invalid or unenforceable in whole or in part, these Conditions shall continue to be valid as to the other provisions of these Conditions and the remainder of the affected provision in question shall not be affected thereby.
- 13.5 Any waiver by Crystal Air of a breach of these Conditions by the Buyer shall not be considered as a waiver of any subsequent breach of the same or any other provision of these Conditions.
- 13.6 Each of Crystal Air and the Buyer warrant and represent to the other that it/he has full authority, power and capacity to enter into the Contract and that all necessary actions have been taken to enable it/he to lawfully enter into the Contract and observe and perform these Conditions.
- 13.7 The expiration or determination of the Contract howsoever arising shall not affect such of the Conditions as are expressed to operate or have effect thereafter and shall be without prejudice to any right of action already accrued to either party in respect of any breach of these Conditions by the other party.
- 13.8 The Contract shall in all respects (including the formation hereof and performance hereunder) be governed by and construed in accordance with the laws of Ireland. The Buyer and Crystal Air hereby agree to irrevocably submit to the exclusive jurisdiction of the Courts of Ireland in relation to any disputes or proceedings arising out of or in connection with the Contract.
- 13.9 Any notice required to be given to either party under these Conditions shall be in Writing addressed to that party at its required office or principal place of business.