



## **GENERAL CONDITIONS OF SALE**

***Merlin Equipment Ltd.***

***Last revised August 2017.***

### **Offers and Acceptance**

No obligation shall arise as a result of a catalogue entry, quotation or any other offer, until Merlin Equipment accepts the order from a Customer seeking to make a purchase.

### **Orders**

Where possible orders should be made using Merlin Equipment's order codes, the Customer number and/or your trade account number and one of Merlin Equipment's official order forms to speed your purchase through the process. Telephone orders will be accepted. Written confirmation is not required for telephone orders, but if sent they must be marked 'Confirmation Only' to avoid liability for a duplicated delivery. Merlin Equipment reserves the right to deliver part orders, or hold orders until all items are available as required. Credit card charges are only made when products are despatched for mail order delivery or collected from a Merlin Equipment warehouse, the only exception being when we have been requested to build a product to special order. Only one small mail order handling charge will be levied if applicable in respect of the total order. No order may be cancelled without the previous written consent of Merlin Equipment on its headed documentation. In the event of part cancellation Merlin Equipment reserves the right to charge the Customer for any difference in selling price applicable to the quantity despatched up to the time of cancellation.

### **Export**

Separate conditions of sale apply to export sales. The Customer is responsible at the Customer's own expense for obtaining any licence and complying with any export regulations in force within the United Kingdom and in the country for which the products are destined.

### **Prices and VAT**

Merlin Equipment reserves the right to alter prices at any time without prior notice. In general, prices are reviewed every 6 months, except in the case of products subject to high price volatility over a shorter period e.g. certain computer products. All prices are subject to Value Added Tax (VAT) at the relevant rate ruling on the date of despatch. Products marked 'NV' in the catalogue are rated at zero % at the time of going to press.

**Inspection, Transit Delays and Non-Delivery**

Merlin Equipment will use reasonable endeavours to meet delivery estimates but cannot accept any liability whatsoever for failure to do so however arising. Failure to meet a delivery date where deliveries are by instalment shall not prejudice Merlin Equipment's right to make further deliveries by instalment under that contract. The Customer must inspect the products as soon as reasonably practicable after direct delivery and shall within 7 working days of such delivery give notice to Merlin Equipment in detail of any defect in the products or of any other complaint which the Customer may wish to make about Merlin Equipment's service. No claim in respect of non-delivery of products will be considered unless written notification is given to Merlin Equipment within 5 days from receipt of a credit account statement in respect of the products. Payment a) Cash with order. Please ensure that Cheques are made out to: MERLIN EQUIPMENT Ltd. and are crossed 'Payee Only' b) Credit Terms. Credit Terms are available subject to satisfactory references. Payment is due 30 days from the date of the invoice without any deductions whatsoever. If the Credit Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to Merlin Equipment, it shall be entitled to:- (i) Cancel the order and suspend further deliveries (ii) Appropriate any payment made by the Customer to such of the products (or products supplied under any other order) as Merlin Equipment may think fit (iii) Charge an administration fee for any legal or other actions required to recover monies due (iv) Charge interest on the unpaid amount from the due date at a rate of 4% above the current London Interbank Borrowing Rate (LIBOR) per annum

**Ownership**

Risk of loss of or damage to the products shall pass to the Customer at the time of delivery or collection from a Merlin Equipment warehouse. The property in the products shall not pass to the Customer until all sums due or owing to Merlin Equipment by the Customer on any account have been paid. Invoices are due for payment 30 days from the date of the invoice. If payment in full or in part is not made by the due date, or the Customer is wound up, or a receiver appointed over any asset or the undertaking of the Customer or an execution or distress be levied against the Customer, Merlin Equipment will be entitled without prior notice to the Customer or any liquidator or receiver to retake possession of the products and for that purpose to enter upon any premises occupied or owned by the Customer.

**\*General Descriptive Matter**

All specifications, illustrations or other details contained our catalogue or any price list or advertising material or otherwise communicated to the Customer are intended merely to present a general idea of the product and nothing contained in any of them shall form part of the contract between Merlin Equipment and the Customer. If the description of any products not of Merlin Equipment's manufacture contained in any correspondence, advertising material, invoice or catalogue varies from that of the manufacturer's description, the manufacturer's description will be deemed to be the correct description and shall take precedence over Merlin Equipment's description. The manufacturer's description is available from Merlin Equipment on request.

**\*Product Performance**

The responsibility for ensuring that products are sufficient and suitable for the Customer's requirements is the Customer's sole responsibility save insofar as Merlin Equipment have specifically advised the Customer in writing on Merlin Equipment headed documentation that the products are sufficient and suitable for the Customer's purposes having been fully and accurately advised by the Customer of his requirements.



### **Returns**

No goods can be returned to Merlin Equipment without its express consent. In the event of faulty or damaged products being received by the Customer, please phone our Customer Services Department during office hours to advise of the problem whereupon arrangements to rectify will be made. Goods returned for re-stocking will be subject to a 15% re-stocking charge.

### **Copyright and Patents**

Merlin Equipment have taken all reasonable steps in the course of business to ensure that the products do not infringe any patent, design, trademark, copyright or any other rights of third parties. Merlin Equipment own full copyright in respect of the catalogue and any other catalogues published in paper or electronic form such as CD ROM or the Internet by Merlin Equipment. The reproduction, storage in a retrieval system, or transmission, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, in part or in whole, is prohibited without Merlin Equipment's prior written consent.

### **\*Limitation of Liability**

The Customer will be responsible for ensuring the fitness for purpose of the products for the Customer's application. Every effort has been made to ensure the accuracy of information or advice provided in our catalogue or any other advertising material or by members of Merlin Equipment staff. However Merlin Equipment accepts no liability whatsoever or howsoever arising in respect of loss, damage or expense arising from errors in information or advice provided whether or not due to Merlin Equipment's negligence or that of its employees, agents or sub-contractors. Merlin Equipment shall not be liable to the Customer by reason 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 contract with the Customer, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Merlin Equipment, its employees or agents or otherwise) which arise out of or in connection with the supply of the products or their use or resale by the Customer, and the entire liability of Merlin Equipment under or in connection with the contract with the Customer shall not exceed the price of the products except as expressly provided in these terms and conditions.

### **Force Majeure**

If the performance of the contract or any obligation under it is prevented, restricted or interfered with by any reason or circumstances beyond the reasonable control of the party obliged to perform it (other than financial) the party so affected upon giving prompt notice to the other party shall be excused from performance to the extent of the prevention, restriction or interference but the party so affected shall use its best efforts to avoid or remove such causes of non-performance and shall continue performance under the contract with the utmost despatch whenever such causes are removed or diminished.

### **Law**

Any sales transacted by Merlin Equipment are governed solely by English Law and the parties submit to the exclusive jurisdiction of the English courts.

### **Consumer Protection**

Nothing contained herein shall affect a Customer's statutory rights if he/she 'deals as a consumer' as defined in Section 12 of the Unfair Contract Terms Act 1977. Particular reference is made to clauses marked \*.