



1. Definitions

In these terms and conditions the following words shall have the following meanings:

“the Company”	means JS Humidifiers plc
“the Customer”	means the person firm or Company to whom this document is addressed
“the Equipment”	means the goods to be purchased by or services to be provided to the Customer
“the Services”	means any work provided to the Customer by the Company including but not limited to installation commissioning servicing and maintenance work
“the Contract”	means the contract into which these terms and conditions are incorporated and by which the Customer purchases the equipment or services from the Company.
“the Terms”	means the terms and conditions of sale are set out herein.

SAFETY INFORMATION ABOUT THE USE OF THE GOODS IS PROVIDED AND IT IS YOUR RESPONSIBILITY TO BRING THIS TO THE ATTENTION OF THE USER OF THE GOODS.

2. General

2(i) Quotations and tenders do not constitute offers and may be withdrawn or amended at any time before they are accepted which must be in writing (they are automatically withdrawn on the 60th day from their date unless otherwise stated in the quotation or tender). All orders are accepted to these Terms which may not be altered without the written agreement of the Company. Any contrary or additional terms are excluded unless so agreed.

2(ii) The Customer acknowledges that all the terms of Contract between the Customer and the Company are contained in these Terms and that the Customer is not relying on any prior representation and accordingly nothing said or written by or on behalf the Company that is not set out in this Contract shall bind the Company or give rise to any rights or claims of any kind against the Company.

2(iii) Without prejudice to Clause 2(ii) while the Company takes every precaution in the preparation of its catalogues technical circulars price lists and other literature these documents are for general guidance only and statements included in these documents (in the absence of fraud on the Company's part) shall not constitute representations by the Company and the Company shall not be bound by them. If the Customer requires advice in relation to the Equipment a specific request for advice should be made and any advice given in writing by the Company in response to such a request shall amount to a representation and the Company shall be liable accordingly.

2(iv) Specific testing of the Equipment can be provided on request and will be undertaken in the Customer's presence and at the Customer's cost. Time taken for specific testing will be added to any time quoted for delivery.



2(v) The Company may make changes to the specification of the Equipment which do not materially affect its quality or performance or supply Equipment or equivalent or approximately equivalent performance if the Equipment referred to in the order is no longer readily available at the time of delivery.

2(vi) Orders may be cancelled only with the Company's written agreement and the Customer will indemnify the Company against all losses damages costs and expenses the Company incurs as a result of that cancellation. Any cancellation of the Equipment ordered (which includes the Services ordered) shall be subject to the following charges:

(a) Equipment delivered from stock capable of resale – 25% of order value

(b) non-stock Equipment which is suited to resale – 50% of order value

(c) non-stock Equipment which is not suited to resale – subject to the Company's discretion but no less than 50% of order value

(d) Services – subject to the Company's discretion but no less than 25% of order value

Unused Equipment will be accepted for return at the Company's discretion and on terms agreed with the Company.

3. Delivery

3(i) The risk in the Equipment passes to the Customer when the Equipment leaves the Company's premises and the Customer should insure accordingly.

3(ii) The Company shall at the Customer's cost deliver to the address nominated. It is the Customer's responsibility to ensure accurate instructions and safe and adequate access to enable delivery to be effected.

3(iii) If the Company is unable to deliver due to circumstances beyond its reasonable control a storage fee of 0.5% of the total invoice value per week or part week may be charged.

3(iv) Delivery dates are given in good faith but are estimates only. Time for delivery shall not be of the essence of the Contract.

3(v) The Company shall not be liable for any damages whatsoever whether direct or consequential (including for the avoidance of doubt any liability to any third party) resulting from any delay in delivery of the Equipment and/or Services or failure to deliver the Equipment and/or Services in a reasonable time whether such delay or failure is caused by the Company's negligence or otherwise howsoever.

3(vi) The Company reserves the right to make delivery by installments and tender a separate invoice in respect of each instalment. The Company's failure to deliver any one or more instalments or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

4. Price and Payment

4(i) The ex-works price of the Equipment and/or the Services shall be as quoted or agreed and is exclusive of VAT.

4(ii) Prices quoted or agreed are applicable to the quantity specification delivery dates and information provided by the Customer. If the order placed varies or delay is caused by the Customer's instructions or lack of instructions the Company shall be entitled to adjust the price.



4(iii) Payment of the Company's account will be within 30 days of the date of invoice unless otherwise stated ("Due Date"). Any settlement discount is offered at the absolute discretion of the Company if at all.

4(iv) No payment shall be deemed to have been made until such time as the funds are cleared through the banking system.

4(v) Any increase in costs to the Company between the date of the order and the date of delivery of the Equipment and/or the Services shall be passed on to the Customer and such increased costs will be added to the invoice for the Contract or invoiced as soon as reasonably practicable thereafter.

4(vi) The Customer may not withhold payment of any invoice or other amount due to the Company by reason of any right of set off or counterclaim which the Customer may have or allege to have for any reason.

5. Inspection

5(i) The Customer shall inspect the Equipment at the place and time of unloading but nothing in these Terms shall require the Customer to break packaging and/or unpack Equipment which is intended to be stored before use.

5(ii) Unless the Customer advises the Company in writing within 5 (five) working days of unloading of any claim for loss damage short delivery or failure to conform to the Contract apparent on inspection or inspection in Equipment will be deemed to have been delivered in accordance with the delivery documents and the Customer shall not be entitled and waive any right to reject the Equipment.

5(iii) The Company's liability for loss damage short delivery or failure of the Equipment to conform to the Contract which is apparent on inspection is limited to supplying the Equipment as ordered or crediting part of the purchase price and the Company shall not be liable for any damages whatsoever. The Customer remains liable to pay the full invoice price of the Equipment delivered in accordance with the Contract. Any other claim for damages is subject to Clause 9.

6. Title

6(i) The title to the Equipment shall remain with the Company until the Customer pays the price of the Equipment and any other sums outstanding between the Customer and the Company whether in respect of this Contract or otherwise.

6(ii) If the Customer alters the Equipment by subjecting it to any manufacturing process or incorporating it into another product ("Altered Equipment") until payment is made under Clause 6(i) the Company shall retain title to the Equipment and the Altered Equipment in common with any other owner other than the Customer of the property in the Altered Equipment.

6(iii) Until title passes:-

(a) The Customer shall hold the Equipment and the Altered Equipment as the Company's fiduciary agent and bailee.

(b) The Equipment and the Altered Equipment shall be stored separately from any other equipment and property of other persons and in accordance with recommendations from the Company.



(c) The Customer shall not interfere with any identification marks labels batch numbers or serial numbers on the Equipment.

(d) The Customer shall be responsible for and adequately insure in the name of and for the benefit of the Company against loss or damage arising from any cause whatsoever the Equipment and any materials or goods associated with the Services provided by the Company in their full replacement value. The Customer shall produce to the Company on demand the policies of such insurance and receipts of premiums paid thereon.

(e) The Company agrees that the Customer may use or agree to sell the Equipment and the Altered Equipment as principal and not as the Company's agents in the ordinary course of the Customer's business subject to the following express conditions:

i. that the entire proceeds of any sale or insurance proceeds received in respect of the Equipment and the Altered Equipment are held in trust for the Company and not mixed with any other monies or paid into an overdrawn bank account and shall at all times be identifiable as the Company's money.

ii. that the Customer notifies their customer that the Company remains the legal owner of the Equipment and the Altered Equipment until the Company received payment in accordance with Clause 6(i) and the Company reserves the right to label the Equipment and Altered Equipment accordingly.

iii. that the Customer will at the Company's request and at the Customer's expense assign to the Company all rights the Customer may have against the Customer's customer; and that the customer's right to use or sell the Equipment and the Altered Equipment may be withdrawn by the Company on notice at any time and will automatically cease in the event of the Customer becoming insolvent.

(f) If the Equipment and the Altered Equipment are to become affixed to any land building or other equipment the Customer must ensure that they are capable of removal without material injury to the land building or other equipment and the Customer shall take all necessary steps to prevent title to the Equipment and the Altered Equipment from passing to the owner or landlord of such land building or other equipment.

6(iv) The Company shall be entitled at any time to recover any or all of the Equipment and the Altered Equipment to which the Company has title and for that purpose the Company its employees or agents may with such transport as is necessary enter upon any premises or vehicle owned or occupied by the Customer or to which the Customer has access and where the Equipment and the Altered Equipment may be or is believed to be situated.

6(v) The title to any drawings illustrations or descriptive material (hereinafter referred to as the "Documents") submitted by the Customer shall remain his property. The copyright to any Documents submitted by the company shall remain his property.

7. Services

7(i) Where the Company has agreed to install and/or commission any goods or perform any other services including but not limited to service work and maintenance the following Conditions shall apply. The Customer must ensure that:-

(a) access/lifting equipment is available if the site is not on the ground floor

(b) adequate access relevant to the size of the goods is provided



- (c) the site is ready at the agreed time
 - (d) the programme of works and access to the site allows for completion of the Services within normal working hours
 - (e) the provision of the Services will not be delayed or interrupted
 - (f) adequate lighting, heating, power, water and drainage supplies are provided
 - (g) specified building, plumbing and electrical works defined by the Company as a Customer responsibility are complete and in accordance with specification
 - (h) the supply of scaffolding, ladders, mobile access platforms, hoisting and/or lowering gear required by the Customer for the execution of the Services is complete and correctly sited
 - (i) a safe and appropriate working environment in accordance with the British Standard Code of Practice for safe working in occupied and unoccupied parts of the site is provided for the Company's employees and agents.
- 7(ii) If (in the Company's sole discretion) any of the above Conditions is not met the Company shall be entitled (without prejudice to any other right or remedy the Company may have) to:
- (a) suspend the Company's obligation to perform the Services without liability on the Company's part and if the Conditions are not met within 5 working days cancel the obligation to perform the Services and recover from the Customer all losses damages costs and expenses incurred including any claim by any Third Party or
 - (b) charge the Customer for additional costs incurred in completing the Services including but not limited to travel and overtime rates for labour.
- 7(iii). Where the price quoted for the Services is based on particulars supplied by the Customer any materials or additional services required which were not apparent from those particulars will be subject to an additional charge including but not limited to travel and overtime rates for labour.
- 7(iv) In the event of determination of the Services by the Customer such determination shall be in writing by registered or recorded post giving full reasons for such determination. In the event of such determination for whatever cause the Company shall be entitled to be paid any design costs, the total value of the work begun and/or completed up to the date of determination, the cost of materials and goods obtained by the company for the Services, the cost of removal from site of any of the Company's property and any direct loss and/or expense caused to the Company by the Customer whether by determination or otherwise under these Terms. The Company may take possession of and shall have lien upon all goods and materials which may have become the property of the Customer until payment of all monies due to the Company by the Customer

8. Variations

- 8(i) "Variation" means any alteration or modification of the design, composition, quality or quantity of the Equipment and/or the Services and includes any addition, omission or substitution and any alteration to the programme of works requested by the Customer.
- 8(ii) All Variations must be ordered in writing by the Customer (or where ordered verbally confirmed in writing by the Company) and if agreed by the Company the Customer shall pay the cost of the Variation and all additional costs and expenses



incurred by the Company including but not limited to the provision of labour at the Company's day work rates details of which are available on request.

8(iii) If it is not reasonably possible to estimate the value of a Variation before the company complies with the order or if the order is complied with before the cost of the Variation has been agreed then the cost of the Variation shall be charged on the basis of the Company's day work travel and overtime rates together with the cost of additional materials and services at the Company's rate current at the time the Variation was carried out.

9. Responsibilities

9(i) In this Clause "the Defect" shall mean the condition and/or any attributes of the equipment and/or any condition or circumstances arising from any service provided by the Company and/or any other circumstances which but for the effect of these Terms would have entitled the Customer to damages.

9(ii) Nothing in these Terms shall exclude or restrict the Company's liability for death or personal injury resulting from the Company's negligence or the Company's liability for fraudulent misrepresentation.

9(iii) If the Customer deals as a Consumer (being a natural person acting for purposes outside their trade business or profession or as defined by the Unfair Contract Terms Act 1977) any provision of these Terms which is of no effect shall not apply. The Statutory rights of a Consumer are not affected by these Terms.

9(iv) Subject to Clauses 9(ii) and 9(iii) of these Terms the Company shall not be liable by reason of any misrepresentation (unless fraudulent) or in contract tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause for any damages whatsoever. Instead of liability in damages the Company undertakes liability under Clause 9(v) below.

9(v) Where but for the effect of Clause 9(iv) of these Terms the Customer would have been entitled to damages against the Company, the Company shall not be liable to pay damages but subject to the conditions set out in Clause 9(vi) below shall at the Company's sole discretion either repair the Equipment at the Company's own expense or supply replacement Equipment or re-do any service free of charge or refund all (or where appropriate part) of the price paid.

9(vi) The Company will not be liable under Clause 9(v):-

(a) If the Defect would have been apparent on a reasonable inspection under Clause 5(i) these Terms at the time of unloading unless the Company is given written notice within 5 working days of the time of unloading.

(b) Unless the Defect is discovered within 12 months from the date of delivery and the Company is given written notice of the Defect with 10 working days of it being discovered

(c) Unless after discovery of the Defect the Company is given a reasonable opportunity to inspect the Equipment before it is used or in any way interfered with. The Company acknowledges that the cost of suspending works is relevant to the determination of what is a reasonable opportunity and this sub-clause shall not apply to any works affecting the Equipment which it may be reasonably necessary to carry out in the interests of safety and/or as emergency measures



(d) if the Defect arises from fair wear and tear
(e) if the Defect arises from the Customer's negligence mis-use alteration or repair of the Equipment storage of the Equipment in unsuitable conditions or abnormal working conditions;
and/or

(f) if the Defect is caused by the Customer's or any third party's failure to assemble the Equipment in accordance with the Company's prescribed methods and our technical information brochures.

9(vii) if the Equipment is supplied to a drawing design measurement or specification provided in writing by the Company then subject to Clauses 9(ii) and 9(iii) of these Terms the Company shall not be under any liability for damages whatsoever or under Clause 9(v) of these Terms except in the proportion and to the extent that such damages have resulted primarily from the Company's breach of contract or negligence.

9(viii) The Company will not be liable under Clause 9(vii) if:-

(a) Material information is withheld concealed or misrepresented by the Customer;
and/or

(b) the drawing design measurement or specification provided by the Company is not in writing.

9(ix) If the equipment is supplied manufactured or processed to the drawing design measurement or specification of the Customer then:-

(a) Subject to Clauses 9(ii) and 9(iii) of these Terms the Company shall not be under any liability for damages whatsoever or under Clause 9(v) of these Terms as the case may be except in the event of:

(i) fraudulent misrepresentation by the Company

(ii) misrepresentation where the representation was made or confirmed in writing by the Company

(iii) non-compliance with such drawing design measurement or specification; or breach of a written warranty signed by the Company that the Equipment is fit for that purpose

(b) The Customer will unconditionally fully and effectively indemnify the Company against all losses damages costs on an indemnity basis and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim:-

(i) for infringement of any patents copyright design trademark or any other industrial or intellectual property rights of any other person:- and/or

(ii) arising from any such manufacturing or processing including but not limited to any Defect in the Equipment.

This indemnity will be reduced in proportion to the extent that such losses damage costs and expenses are due to the Company's negligence.

9(x) Subject to Clauses 9(ii) and 9(iii) the Company shall not be liable for misrepresentation (unless fraudulent) or in contract tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof for:-

(a) any loss of profit, business, contracts, revenues or anticipated savings; and/or

(b) any special, indirect or consequential damage of any nature whatsoever.

9(xi) Except where the Customer deals as a Consumer the Customer will unconditionally fully and effectively indemnify the Company against all losses damages



penalties costs on an indemnity bases and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim by any third party arising from the supply or use of the Equipment. This indemnity will be reduced in proportion to the extent that such losses damages penalties costs and expenses are due to the Company's negligence.

9(xii) Without prejudice to any other provisions of these Terms in any event the Company's total liability for any one claim or for the total of all claims arising from any one act of default on the Company's part whether arising from the Company's negligence or otherwise shall not exceed the insurance cover held by the Company in respect of such claim.

10. Default & Termination

10(i) "Insolvent" means the Customer ceasing to pay its debts in the ordinary course of business being unable to pay its debts as they become due or the Customer ceasing or threatening to cease to carry on its business.

10(ii) "Associated Company" means the Customer's subsidiary or holding company as defined in Section 736 and Section 736A of the Companies Act 1985 or a subsidiary of such holding company, or any company over which the Customer's directors or shareholders have control as defined in Section 840 of the Income and Corporation Taxes Act 1988.

10(iii) If the Customer fails to pay any invoice or any sum due to the Company under any contract on the Due Date or the Customer's credit limit is exceeded or the Customer or its Associated Company becomes Insolvent or there is a material change in the Customer's or its Associated Company's constitution or the Customer commits a material breach of this Contract and fails to remedy that breach after being requested to do so all sums outstanding between the Customer and the Company under this and any other Contract shall become immediately due and payable and the Company shall be entitled to do any one or more of the following (without prejudice to any other right or remedy it may have):-

- (a) require payment in cleared funds in advance of further deliveries of Equipment
- (b) charge interest on the monies outstanding at the rate of 8 per cent above Barclays Bank Plc's base rate in force from time to time from the due date until date of payment after as well as before judgement
- (c) suspend or cancel any further deliveries of Equipment and/or Services to the Customer under any contract without liability on the Company's part
- (d) suspend or cancel any obligation to perform services whether under this or any other contract
- (e) without prejudice to the generality of Clause 6 of these Terms exercise any of the Company's rights pursuant to that Clause
- (f) terminate this or any other part contract with the Customer or any Associated Company without liability on the Company's part.

10(v) Except where the Customer deals as a Consumer the Customer shall reimburse the Company any costs including legal costs on an indemnity basis which the Company incurs in enforcing its rights under this Contract including but not limited to recovery of any sums due.



11. Export Terms

11(i) Where the Equipment is supplied for export from the United Kingdom the provisions of this Clause 11 shall apply notwithstanding any provision of these Terms unless otherwise agreed in writing by the Company.

11(ii) In any case where Equipment is sold CIF or FOB or on the basis of any other international trade term the meaning of such terms contained in Incoterms (1990) shall apply but if there is any conflict between the provisions of Incoterms and these Terms the latter shall prevail.

11(iii) In the case of any sale of Equipment FOB the Company shall be under no obligation to give the Customer notice specified in section 32(3) of the Sale of Goods Act 1979.

11(iv) The Customer shall be responsible for arranging for inspection of the Equipment at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Equipment which would have been apparent on inspection and which is made after shipment or in respect of any damage during transit.

(a) Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by a United Kingdom clearing bank acceptable to the Company or, if the Company has agreed in writing by acceptance by the Customer and delivery to the Company of a bill of exchange drawn on the Customer payable 30 days after sight to the order of the Company at such a branch of Barclays Bank Plc in England as may be specified in the bill of exchange.

(b) The Customer's order will not be accepted by the Company until the Company has evidence of the letter of credit or bill of exchange as the case may be. All costs and charges incurred by the Company in negotiating and accepting payment methods shall be added to the price of the Equipment.

(c) This payment clause shall also apply if the Customer is resident outside the United Kingdom.

12. General

12(i) This Contract shall be governed and interpreted according to the Law of England and Wales and the Customer agrees to submit to the non-exclusive jurisdiction of the English Courts.

12(ii) Any reference in these Terms to any Statute or Statutory Provision includes a reference to that Statute or Statutory Provision as from time to time amended extended or re-enacted.

12(iii) The headings in these Terms are for convenience only and shall not affect their interpretation.

12(iv) The Company shall not be liable for any loss or damage arising as a direct or indirect result of the Company's delay or failure to perform its obligations under this Contract by reason of any force majeure circumstances shall include but not be limited to industrial action, import or export regulations or embargoes, difficulties in obtaining materials, parts components labour or fuel, power failure or breakdown in machinery or vehicles or other circumstances outside the Company's control.



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12(v) The waiver by the Company of any breach of default of these Terms shall not be construed as a continued waiver of that breach nor as a waiver of any subsequent breach of the same or any other provision.

12(vi) If any clause or sub-clause of these Terms is held by a competent authority to be invalid or unenforceable the validity of the other clauses and sub-clauses of these Terms shall not be affected and they shall remain in full force and effect.

12(vii) If the Housing Grants Construction & Regeneration Act 1996 Part II applies to this Contract the Scheme under the Act shall apply and take precedence in the event of conflict between the Scheme and these Terms.

12(viii) This Contract is personal to the Customer and it may not be assigned.

12(ix) Termination of this Contract shall not affect rights and obligations which have already accrued at the time of termination.