

Terms & Conditions: Terms and Conditions of Sale for Instrument Storage

Please read the following Terms and Conditions carefully. They contain important information about your rights and obligations. We recommend that you keep a copy of these Terms and Conditions for future reference.

1 ABOUT US AND THESE TERMS AND CONDITIONS

1.1 Who we are: "We" or "us" are, Amadeus Performance Equipment Limited a company registered in England with registered number 2958266 whose registered office is Vantage Point, North Trade Road, Battle TN33 9LJ. Fax: 01424 77586. Email: info@amadeus-equipment.co.uk.

1.2 Scope of these Terms and Conditions: These Terms and Conditions govern the supply by us of any product ordered by you. Any particular individual product that you order at any one time from us is referred to in these Terms and Conditions as the "Product". Further details of the Product can be obtained from our website or from the product specification materials supplied by us. By agreeing to order a Product, you agree to be legally bound by these Terms and Conditions.

1.3 Changes to these Terms and Conditions: We reserve the right to amend these Terms and Conditions at any time. All amendments to these Terms and Conditions will be informed by email or another form of communication. No other terms or changes to the Terms and Conditions shall be agreed in writing signed by us.

1.4 Definitions and Interpretation: In these Terms and Conditions:

1.4.1 "Acknowledgement" means our acknowledgement of your Order;

1.4.2 a "Business Day" means a day which is neither (a) a Saturday or Sunday nor (b) a public holiday in the United Kingdom;

1.4.3 "Confirmation of Order" means our written or electronic communication to you in which we accept your Order in accordance with clause 3;

1.4.4 "Contract" means your order of a Product in accordance with these Terms and Conditions which we accept in accordance with clause 3 below. If you order more than one unit of Product, each Product ordered will constitute a separate Contract, unless otherwise agreed in writing;

1.4.5 "Order" means the order submitted by you to us to purchase a Product from us either online or by telephone;

1.4.6 "Order Form" means a physical order form in the form supplied or approved by us, on which you may place Orders;

1.4.7 "you" means the customer who orders a Product from us, whose details are provided to us;

1.4.8 "references" to "clauses" are clauses of these Terms and Conditions;

1.4.9 headings (including headings within individual clauses) are for ease of reference only and shall not affect the interpretation or construction of the Terms and Conditions;

1.4.10 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include every gender and references to persons shall include an individual, company, corporation, firm or partnership;

1.4.11 references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification); and

1.4.12 references to "includes" or "including" or like words or expressions shall mean without limitation.

2 **EFFECT**

2.1 Accepting these Terms and Conditions: These Terms and Conditions shall apply to all Orders and to all Contracts made or to be made under the said Terms and Conditions.

2.2 These Terms and Conditions take priority: These Terms and Conditions shall prevail over any separate terms put forward by you. Any conditions that you submit propose or stipulate in whatever form and at whatever time, whether in writing or orally, are expressly waived and excluded. If you give us a purchase order (other than in the form of the Order), this is purely for your administrative purposes and shall not form part of the Contract.

2.3 Ignoring statements not in these Terms and Conditions: Without affecting your statutory rights if you are a consumer, no statements made by our employees, contractors or agents or contained in any brochures, catalogues, sales literature or correspondence are intended to have any legal effect unless expressly agreed in writing by us or referred to in the Contract.

3 **OFFERS, QUOTES & DRAWINGS**

3.1 Offers: Unless otherwise specified, offers are made based upon written information and/or drawings supplied by you;

3.2 Period of Offer: All Offers are open for 60 days and are subject to change thereafter.

3.3 Amendments to Offer: This can be changed after a site visit, if the location is deemed too difficult to access in accordance with clause 4;

3.4 Technical Drawings: These will be supplied with the first site visit free of charge. Subsequent visits and revisions of drawings may be charged for at an hourly rate £37.50.

3.5 Drawings remain the property of Amadeus Performance Equipment Limited and are for your exclusive use within your business. They are not to be reproduced, copied or distributed to third parties without our prior written permission.

4 **MAKING ORDERS OF PRODUCTS AND PAYMENT**

4.1 Procedure for making an Order: When making an Order by

4.1.a) telephone, you must provide the necessary details requested by our sales team; or

4.1.b) email, you must follow instructions provided in quotations or other communication

4.2 Price: Irrespective of any previous price you have seen or heard, once you select a Product that you wish to Order, you will be provided with an invoice including the charges you must pay including VAT, if applicable, and any applicable delivery charges. Unless otherwise stipulated in writing by us, all charges are in the currency then in force in England (i.e. currently pounds sterling). Subject to clause 3.15 below, this is the total that you will pay for the ordered Product.

4.3 Payment of Invoice: You will pay all amounts due under the Contract in full without any deduction or withholding, except as required by law, and shall not be entitled to assert any credit, set-off or counterclaim against Amadeus in order to justify withholding payment of any such amount in whole or in part. Amadeus may at any time, without limiting any other rights or remedies it may have, set off any amount owing by you against any amount payable by Amadeus.

4.4 Payment of deposits: Where the total value of the Order, including VAT or any other levy, exceeds £25,000 then payment of a minimum of 50% shall be paid on acceptance of Order.

4.5 At the discretion of Amadeus, the fees already charged in clause 3.4 may be taken into consideration and a discount applied.

4.6 Export: Where the Goods are to be exported, payment of the invoice in full is required on acceptance of Order. In such cases you are liable for the VAT in any other levy subject to the requirements of HMRC.

4.7 Late payment: Payment is due 30 days after the latter of either:

4.7.a) upon receipt of invoice, or

4.7.b) upon delivery of goods.

After this time has elapsed:

4.7.a) statutory interest will be charged at a rate of 8% plus the Bank of England base rate for every day the invoice remains unpaid.

4.7.d) a fixed sum for the cost of recovering a late commercial payment in addition to reasonable recovery costs will be charged as defined by the late payment legislation 16th March 2013.

4.8 Payment methods: You shall pay for the Product within timeframes specified on our invoice at the time of ordering. Payment can be made by BACS or CHAPS.

Alternatively you may supply us with a cheque or your credit or debit card details from a credit or debit card company acceptable to us, which we require in order to process your Order. We shall not be bound to supply before we have received cleared funds, in full, as specified. We may need to run credit checks or other anti-fraud checks in certain cases, for example, if the billing address does not match the delivery address - and you agree to cooperate with these checks.

4.9 Permission to pay: If you are asked for details of a payment card or a cheque, you must be fully entitled to use that card and account. The card and account must have sufficient funds to cover the proposed payment to us.

4.10 Correct details: You undertake that all details you provide to us for the purpose of purchasing the Product from us will be correct, that the credit or debit card, or account or other payment method, which you use, is your own and that there are sufficient funds or credit facilities to cover the cost of the Product. We reserve the right to obtain validation of your credit or debit card details before providing you with the Product. Normal credit card purchase guarantees apply.

4.11 Being bound by these Terms and Conditions: When you submit an Order to us, you agree that you do so subject to these Terms and Conditions current at the date you submit your Order. You are responsible for reviewing the latest Terms and Conditions each time you submit your Order.

4.12 Acceptance of your Order: We shall not be obliged to supply the Product to you until we have accepted your Order. Unless expressly stating that we accept your Order, an email, letter, fax or other Acknowledgement of your Order by us is purely for information purposes and does not constitute the Confirmation of Order. In that Acknowledgement, we may give you an Order reference number and details of the Product you have ordered. We may, at our discretion, refuse to accept an Order from you for any reason, including unavailability of supplies, or we may offer you an alternative Product (in which case we may require you to re-submit your Order). The Contract shall be formed and we shall be legally bound to supply the Product to you when we accept your Order. Acceptance of your Order by us expressly accepts your order by email, letter or fax to you. Without affecting your obligation to pay us earlier, we may send an invoice to you at any time after we have accepted your Order. The invoice is confirmation of your order and it is your responsibility to ensure the

items match your Order. Until the time we accept your Order, we reserve the right to refuse to process your Order and you reserve the right to cancel your Order.

4.13 Mistakes in an Order: If you discover that you have made a mistake with your Order after you have submitted it to us, or the details on our invoice do not match with your original Order, please contact info@amadeus-equipment.co.uk or 01424 775867 immediately. It is your responsibility to check any information we send you to make sure it corresponds correctly to your order.

4.14 Cancelling before dispatch: If you wish to cancel your Order after you have received the Confirmation of Order but before the product has begun the manufacturing process, you must send your notice of cancellation by email to info@amadeus-equipment.co.uk or by fax to 01424 775866, in each case quoting your order reference number and delivery details given. If you require an installation specialist to install the Product, it is your responsibility to make arrangements for the installation unless we have specifically agreed to install for you.

4.15 Accuracy of prices: We try very hard to ensure that the price given to you is accurate, but the price of your Order will need to be validated by us as part of our acceptance procedure. If the price for the Order changes before we accept your Order, we will contact you and ask you to confirm that you wish to proceed at the amended price.

4.16 A record of your order: We keep an electronic copy of the contract between us for any Order and we will send you, by email, both the details of your Order and a copy of the current Terms and Conditions that apply to that Order.

5 **DELIVERY OF THE PRODUCT**

5.1 Delivery to UK addresses: Any delivery charge will always be based on:

5.1.a) the postcode location of the delivery address you provide when placing your Order; and

5.1.b) the weight of the Product that you have ordered.

Delivery to non-UK addresses: If you require delivery to a non-UK address, you must inform us upon placement of your order so we can adjust the delivery prices to a non-UK address.

5.2 Delivery: We aim to deliver the Product to you at the kerb-side at the nearest access point for our delivery lorry to the place of delivery requested by you in your Order.

5.3 Details when you place your Order: It is your obligation to inform Amadeus of any potential problems that our delivery lorry may have accessing the place of delivery stipulated in the Order. If the product is delivered to a different address to the agreed delivery address you stipulate in your Order due to the size of our delivery lorry, to the extent permitted by law, we shall not be liable to you for any losses, liabilities, costs, damages, charges or expenses arising out of:

5.3.a) non-delivery of the Product; or

5.3.b) delivery of the Product to a place different to the place of delivery that you stipulate in your Order. If the product is delivered to a different address to the agreed delivery address, any additional costs will be charged to you.

5.4 Accepting delivery: We cannot leave Products at places of delivery stipulated in your Order if you, or someone you have authorised to accept delivery, is not present to accept delivery. Anyone at the delivery address will be deemed to be authorised to accept delivery.

5.5 Timeframe: We aim to deliver within the timeframe indicated by us at the time of your Order but we cannot promise an exact date at the time of your Order. However, we will note your preferred delivery date and we will contact you to either confirm that your preferred date is possible or to arrange an alternative date. We always aim to deliver in accordance with your preferred delivery date. If we cannot deliver an installation specialist to install the Product, it is your responsibility to make arrangements for the installation unless we have specifically agreed to install for you.

5.6 Unable to meet estimated delivery date: We shall aim to let you know if we expect that we are unable to meet our estimated delivery date, but, to the extent permitted by law, we shall not be liable to you for any losses, liabilities, costs, damages, charges or expenses arising out of late delivery.

5.7 Accepting delivery: On delivery of the Product, you are required to sign for delivery. You agree to inspect the Product for the correct quantities and any obvious faults, defects or damage before you sign for delivery. If the Product does have an obvious fault, defect or damage on delivery, you must stipulate that the Product is faulty, defective or damaged before you sign for delivery. Failure to stipulate this will mean that we cannot replace the faulty, defective or damaged Product. You need to keep receipt of the delivered Product in case of future discussions with us about it. If you do report a faulty, defective or damaged product to us, clause 10 applies.

5.8 Difficult locations: Please note that it might not be possible for us to deliver to some locations. If this is the case, we will inform you using your contact details provided at the time of ordering.

5.9 Packaging: We deliver in our standard packaging. Any special packaging requested by you is subject to additional charges. It is your responsibility to dispose of all packaging (e.g. pallets, packaging etc.).

5.10 Risk: All risk in the Product shall pass to you upon delivery, except that where delivery is delayed due to your breach of your obligations under the Contract, risk shall pass at the date when delivery would have occurred but for your breach. From the time when risk passes to you, we will not be liable for loss or destruction of the Product.

5.11 Care when opening: You must take care when opening the Product so as not to damage it, particularly if you chose to use a sharp instrument.

5.12 Readiness to receive Products: You shall ensure that you are ready for safe receipt of the Product without undue delay and at any time reasonably specified by us. Any delay, unless agreed with us in writing, will entail additional cost implications.

5.13 Refusal to accept delivery: If delivery or collection is delayed through your unreasonable refusal to accept delivery on the delivery date that we agree with you, if you refuse to sign for the delivery of the Product on delivery or if you do not (within two weeks of our first attempt to deliver the Product to you) accept delivery or collect the Product from the carrier, then we may (without affecting any other right or remedy available to us) do either or both of the following:

5.14.a) charge you for our reasonable storage costs and other fees reasonably incurred by us, including, but not limited to, redelivery costs; and

5.14.b) no longer make the Product available for delivery or collection and notify you that we are immediately cancelling the Contract with monies paid being retained.

5.15 When you own Products: You shall own the Product only when we deliver it to you and when we have received cleared payment in full for the Products (including VAT and delivery charges). Property or title of all goods does therefore, not pass on to you until they have been paid for in full.

5.16 Do the Products meet your needs: On placement of Order, it is your responsibility to ensure that the Products are sufficient and suitable for your purposes and meet your individual requirements. We do not warrant that the Products will meet your individual requirements.

6 **INSTALLATION OF THE PRODUCT**

6.1 In addition to the obligations set out in part 5 of this contract, if a product is also being installed on site the following applies:

6.1.a) It is your responsibility to ensure that the area where the Product is to be situated is structurally robust enough to support the weight of the storage units.

6.2 Removal of Rubbish: No allowance is made in respect of removing rubbish from the site. Careful consideration is applied to manufacturing the storage units so the waste will be packing materials that protect components during delivery, such as bubble wrap. It is your responsibility to remove these items from the site.

6.3 In accordance with clause 5.5, a mutually convenient installation date will be agreed. Should this date be changed, any costs and charges already paid by Amadeus, such as accommodation, will be recovered from you plus an administration charge of 15%.

6.4 Risk: All risk in the Product shall pass to you upon delivery, except that where delivery is delayed due to your breach of your obligations under the Contract, risk shall pass at the date when delivery would have occurred but for your breach. From the time when risk passes to you, we will not be liable for loss or destruction of the Product.

7 **COLOURING & MEASUREMENTS**

7.1 Colouring: The colouring of products as shown on the website may vary from the Product delivered to you due to limitations in the software or hardware you use to access the site.

7.2 Dimensions: All dimensions are subject to conventional manufacturing tolerances except where requirements are stated as a range with specific minimum and maximum end points.

8 **INTELLECTUAL PROPERTY RIGHTS**

8.1 You agree that no Intellectual Property Rights expressed or implied shall be assigned and/or transferred to you by virtue of this Agreement.

8.2 All Intellectual Property Rights in the Products shall remain vested in Amadeus.

8.3 You warrant that you will not, and you shall ensure that you do not, do anything which will cause Amadeus to infringe any Intellectual Property.

9 **RETURNING THE PRODUCT WITHOUT FAULT - NON INSTALLED PRODUCTS ONLY**

9.1 Not affecting your statutory rights: The remedies in clause 9 are additional to and do not affect your statutory rights, under which you may have the right to insist that goods you buy from businesses must correspond with their description, be fit for their purpose and of satisfactory quality. This clause 9 only applies in respect of products which are not faulty.

9.2 How to cancel: To cancel a Contract as detailed under the previous clause, you must inform us in writing. You must also arrange prompt delivery of the Products back to us as soon as reasonably practicable, and at your own cost. You have a legal obligation to take reasonable care of the Products while they are in your possession. If you fail to comply with this obligation, we may have a right of action against you for compensation.

9.3 Packaging returned Products: If you return any Product because you have cancelled a Contract, you must ensure that it is adequately packaged and carriage has been paid. We shall not accept any responsibility for damage caused by inadequate packaging by you.

10 FAULTY PRODUCTS

10.1 Quality of Products: We warrant that:

10.1.a) the Product will be delivered undamaged in the quantities ordered; and

10.1.b) the Product will conform with the manufacturer's latest published instructions as set out on the website or in our Product materials at the time of your Order.

10.2 Use of Products: The Product is intended to be used strictly in accordance with the manufacturer's latest published instructions, and it is the user's responsibility to ensure that they use the Product strictly in accordance with those instructions.

10.3 Minor Adjustments: Before delivery, we may make minor adjustments to material, colour, weight, measurements, design and other features to the extent that they are reasonable.

10.4 Inspection: By its very hard to deliver Products in excellent condition. However, if you tell us that any Product is faulty, you agree to keep the Product in its current condition available for us (or our agent) to inspect within a reasonable time.

10.5 Assistance to remedy faulty Products: In order to provide you with any remedies for a faulty Product, we may need your assistance and prompt provision of certain information regarding the Product, including:

10.5.a) you specifying with reasonable detail the way in which it is alleged that the Product is damaged or defective;

10.5.b) you providing to us photographic evidence, on request; and

10.5.c) you providing us with the information as we reasonably require.

10.6 When we won't repair or replace: If you wish us to repair or replace the Product where it is a defect covered by the Contract, but we find that the Product has:

10.6.a) been missed, abused or subjected to neglect, improper or inadequate care, carelessness, damage or abnormal conditions; or

10.6.b) been involved in any accident or damage caused by an incorrect attempt at modification or repair; or

10.6.c) been dealt with in use contrary to our or the manufacturer's instructions for the Product; or

10.6.d) deteriorated through normal wear and tear;

after delivery by us, we may at our discretion decide not to repair or replace the Product and/or we may require you to pay all reasonable carriage and servicing costs at our current standard rates, and, to the extent permitted by law, we shall not be liable to you for any losses, liabilities, costs, damages, charges or expenses as a result.

10.7 What we don't limit or exclude liability for: Nothing in these Terms and Conditions excludes or limits our liability for death or personal injury caused by our negligence, for fraud, for breach of Section 12 of the Sale of Goods Act 1979 or for any other liabilities that we cannot exclude at law.

11 REFUNDS

11.1 Amadeus will, at its option, repair or replace the defective Goods. Refunds will only be made on faulty, defective or damaged products once agreed and defined by Amadeus.

12 INFORMATION AND NEWSLETTERS

12.1 Mailing lists: When you place an Order, we will add your details to our mailing list for our news, updates, promotions and newsletters. Our use of your personal data shall be in compliance with the Data Protection Act

12.2 Unsubscribing: Any information or newsletter that we send to you will contain information for you to unsubscribe from our mailing list. Alternatively, to unsubscribe contact us on 01424 775867 or email info@amadeus-equipment.co.uk.

13 CIRCUMSTANCES BEYOND OUR CONTROL

13.1 Circumstances beyond our control: We shall not be liable to you for any breach, hindrance or delay in the performance of the Contract attributable to any cause beyond our reasonable control, including any Act of God, actions of third parties (including without limitation hackers, suppliers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil commotion, war, hostilities, warlike operations, national emergencies, terrorism, piracy, arrests, restraints or detentions of any competent authority, strikes or combinations or lock-out of workmen, epidemic, fire, explosion, storm, flood, drought, weather conditions, earthquake, natural disaster, accident, mechanical breakdown, third party software, failure or problems with public utility supplies (including general: electrical, telecoms or internet failures) and expense or inability to obtain services, equipment or transportation ("Event of Force Majeure"), regardless of whether the circumstances in question could have been foreseen.

13.2 Terminating: Either you or we may terminate the Contract immediately by written notice to the other in the event that the Event of Force Majeure lasts for a period of two Business Days or more, in which event neither you nor we shall be liable to the other by reason of such termination.

13.3 Choosing who to supply: If we have contracted to provide identical or similar Products to more than one buyer and are prevented from fully meeting our obligations to you by reason of an Event of Force Majeure, we may decide at our absolute discretion which contracts we will perform and to what extent.

14 BREACH OR DEFECT: IF YOU:

14.1.a) are in breach of any of your obligations under the Contract; or

14.1.b) are unable to pay your debts or have a petition for administration or winding up presented against you or commence winding up proceedings or have a receiver or manager appointed over any of your property or assets; or are the subject of a bankruptcy petition or enter into any composition with creditors generally or take or suffer any steps preparatory thereto or if any distress or execution is levied or threatened to be levied on any of your property or assets;

We may terminate the Contract immediately on giving notice in writing and retain any advance payment and you shall indemnify us against all claims, losses, damages, interest, costs and expenses of whatsoever nature resulting from any such termination and all sums due to us from you shall become immediately payable.

14.2 Effect of termination: Termination of the Contract shall be without prejudice to any accrued rights or remedies of either you or us. Termination of the Contract will not affect the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

15. NOTICES

15.1 Form of notice: Any notice under the Contract shall be in writing and may be served by personal delivery or by pre-paid or recorded delivery letter or by facsimile or email addressed to the relevant party at the address or facsimile number of the relevant party last known to us.

15.2 When notices are effective: Any notice given by post shall be deemed to have been served two Business Days after the same has been posted and any notice given by facsimile shall be deemed to have been served upon receipt of an answerback signal from the receiving machine and any notice given by email shall be deemed to have been served when the email has been proved to be received by the recipient's server, and in proving such service it shall be sufficient to prove that the letter or facsimile was properly addressed or numbered and, as the case may be, posted as a prepaid or recorded delivery letter or dispatched or an answerback signal received.

16. GENERAL

16.1 Keeping records: We shall keep a record of your order and these Terms and Conditions until six years after we have accepted your Order. However, for your future reference, we advise you to print and keep a copy of these Terms and Conditions, your Order, the Acknowledgement and the Confirmation of Order.

16.2 Non-waiver of rights: No failure or delay by either party in exercising any right under the Contract shall operate as a waiver of such right or extend to or affect any other or subsequent event or impact any rights or remedies in respect of it or in any way modify or diminish your or our rights under the Contract.

16.3 Unenforceability: If any clause in these Terms and Conditions shall become or be declared by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other clause or part of any clause, all of which shall remain in full force and effect, so long as the Terms and Conditions shall be capable of continuing in effect without the unenforceable term.

16.4 Non-assignment: You shall not assign or transfer or purport to assign or transfer the Contract to any other person.

16.5 No partnership etc.: Nothing in the Contract shall create or be deemed to create a partnership, an agency or a relationship of employer and employee between you and us.

16.6 No third party rights: A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 in respect of the Contract.

16.7 Governing law and jurisdiction: Contracts for the purchase of Products (and their terms and Conditions) and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by English law. Any dispute or claim arising out of or in connection with such Contracts or their formation or these Terms and Conditions (including non-contractual disputes or claims) will be subject to the exclusive jurisdiction of the English courts. All dealings, correspondence and contacts between us shall be made and conducted under English law and in the English language.

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