

TERMS AND CONDITIONS

OLIVE AIR LIMITED

registered in England and Wales with company number 13220376

1. INTRODUCTION

- 1.1 Unless expressly stated otherwise these terms and conditions (**‘the Conditions’**) apply to the services and/or goods as more particularly described within the purchase order form provided to customers by Olive Air Limited (**“Olive Air”**).
- 1.2 These Conditions constitute an important document and therefore you should retain this for future reference. These Conditions, each purchase order form, and written acceptance provided by Olive Air forms a contract between you and Olive Air under which Olive Air will provide the goods and/or services for you.
- 1.3 Olive Air aims to provide 24/7 call-out services, however, for non-urgent enquiries our normal office opening hours are 7.00 am to 6.00 pm Monday – Friday, excluding Public Holidays **“Business Hours”**.
- 1.4 Olive Air is registered with REFCOM (registration number REF1017984) and all its engineers are required to possess an NVQ level 2 qualification as a minimum.

2. APPLICATION

- 2.1 The purchase order form of Olive Air constitutes an offer by the customer to purchase services in accordance with these Conditions.
- 2.2 The order shall only be deemed to be accepted when Olive Air issues written acceptance of the order at which point and on which date the contract shall come into existence.
- 2.3 The contract (comprising of the purchase order form, acceptance, and the Conditions) constitutes the entire agreement between the parties. The customer acknowledges that it has not relied on any statement, promise or

representation made or given by or on behalf of Olive Air which is not set out in the contract.

2.4 Any drawings, descriptive matter or advertising issued by Olive Air, and any descriptions or illustrations contained in Olive Air's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the goods and/or services described in them. They shall not form part of the contract or have any contractual force.

2.5 These Conditions apply to the contract to the exclusion of any other terms that the customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any quotation given by Olive Air shall not constitute an offer and is only valid for a period of 14 business days from its date of issue. Quotations provided by Olive Air set out the proposal of work. Unless clearly stated any other work or costs are not included.

3. CONTRACT PERIOD

3.1 The estimated period of time required to complete the works specified in the contract ("**Contract Period**").

3.2 Should the customer wish to instruct Olive Air for any further annual service, maintenance or repair work, these services will constitute a new contract.

4. PROVISION OF THE SERVICES

4.1 Olive Air shall perform the services, as defined in the purchase order form, with reasonable skill and care.

4.2 Olive Air shall use all reasonable endeavours to meet any performance dates as may be specified but any such dates shall be estimates only and time shall not be of the essence for the performance of the services.

4.3 Olive Air shall have the right to make any changes to the services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the services and shall notify the customer in any such event.

- 4.4 Olive Air shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable requirements that apply at any of the customers' premises and that have been communicated to Olive Air in writing PROVIDED THAT Olive Air shall not be liable under these Conditions if, as a result of any such observations, it cannot perform its obligations under these Conditions.
- 4.5 For the avoidance of doubt Olive Air shall not be responsible for the following unless the contract expressly otherwise specifies:
- 4.5.1 Third party permission including without limitation local authority, landlord/landlady consent or fees;
 - 4.5.2 Electric works (power supplies);
 - 4.5.3 Planned preventative maintenance visits to uphold any warranty provided by a third party or Olive Air;
 - 4.5.4 Removal, refrigerant reclaim, servicing or reactive investigation of any other system;
 - 4.5.5 Building work;
 - 4.5.6 Making good and redecoration;
 - 4.5.7 Boxing in of services/units;
 - 4.5.8 Steel works;
 - 4.5.9 Diamond drilling;
 - 4.5.10 Building maintenance system works;
 - 4.5.11 Duct work; and
 - 4.5.12 Specialist lifting/access equipment hire.

5. CUSTOMER OBLIGATIONS

- 5.1 The customer will cooperate with Olive Air in all matters relating to the services and provide for Olive Air, its agents, sub-contractors, and employees in a timely manner and at no charge, access to its premises, electric mains

supply, fresh running water, toilet facilities, and other facilities as requested by Olive Air.

- 5.2 The customer shall provide Olive Air with such information and materials as Olive Air may reasonably require in order to supply the services and ensure that such information is accurate in all material respects.
- 5.3 The customer shall obtain and maintain all necessary licenses, permissions and consents which may be required before the date on which the services are to start.
- 5.4 The customer is responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws and will observe all health and safety rules and regulations and any other security requirements that apply at any of the customer's premises which will take the benefit of the services, before and during the supply of the services at those premises and informing Olive Air of all of its obligations and actions under this Clause 5.
- 5.5 If Olive Air's performance of any of its obligations under the contract is prevented or delayed by any act or omission by the customer or failure by the customer to perform any relevant obligation ("**Customer Default**"):
 - 5.5.1 Olive Air shall without limiting its other rights or remedies have the right to suspend performance of the services until the customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Olive Air's performance of any of its obligations;
 - 5.5.2 Olive Air shall not be liable for any costs or losses sustained or incurred by the customer arising directly or indirectly from Olive Air's failure or delay to perform any of its obligations as set out in this Clause 5.5; and

5.5.3 The customer shall reimburse Olive Air on written demand for any costs or losses sustained or incurred by Olive Air arising directly or indirectly from the Customer Default.

6. F-GAS SAFETY CHECKS

6.1 The customer is responsible for scheduling any F-Gas checks after the initial installation of any goods and the customer shall indemnify Olive Air from and against all liability in relation thereto. Government guidance recommends safety checks should be completed every 3 to 12 months. This timescale is dependent on the weight equivalence of carbon dioxide that the equipment contains. Further details can be found on the government website [http://www.gov.uk/guidance/checking -f-gas-equipment-for-leaks](http://www.gov.uk/guidance/checking-f-gas-equipment-for-leaks)

6.2 Any contractor completing an F-Gas check must be registered in accordance with REFCOM otherwise any warranty given by Olive Air under the terms of Clause 10 shall be deemed null and void.

7. PRICE

7.1 The price for the provision of the services shall be the price stated in the purchase order form. All prices are stated exclusive of value-added tax (“VAT”). A lower rate of VAT can be charged in some circumstances at the discretion of Olive Air with approval from HMRC.

7.2 Olive Air shall be entitled to increase the price of the goods and/or services at any time to take account of any additional cost suffered by Olive Air including but without limitation to changes in supplier prices, increases in labour materials, increases in raw materials or any change in or restatement of the governing law (including without limitation any legislative enactment) which increases the cost to Olive Air of performing the services.

7.3 If any additional services are required by the customer, the provision of these and the terms of payment shall be as Olive Air reasonably determined in writing prior to such additional services being performed.

8. PAYMENT

- 8.1 Unless otherwise agreed in writing a deposit (as specified within a customer quotation) shall be invoiced and due from the customer to secure the purchase of equipment prior to an installation or service date. Should the order be cancelled prior to the completion of work, the customer will be liable for any costs and losses that Olive Air has reasonably incurred including but without limitation to return charges or non-refundable supplier costs.
- 8.2 The remaining balance of the total contract value (or where a deposit is not required then the full contract value) shall be invoiced upon completion of the services.
- 8.3 The customer shall pay each invoice submitted by Olive Air in full and in cleared funds in accordance with the payment terms specified in the purchase order form which forms part of the contract.
- 8.4 Olive Air shall be entitled to invoice the customer for any additional services (as referred to in condition 7.3) at any time after they have been supplied. Any amounts subsequently invoiced shall be due and payable in full and in cleared funds in accordance with the agreement made under Clause 7.3.
- 8.5 Olive Air accepts payments via bank transfer, cheque, cash, or credit/debit card. Payment details are located on invoices sent directly to the customer.
- 8.6 Without prejudice to any other right or remedy Olive Air may have, if any part of the price or any other sum payable to Olive Air is not paid by the due date for payment, Olive Air shall be entitled to charge interest on the amount unpaid at the rate of 4% per month (or part of a month) over the base rate of the Bank of England until paid in full whether before or after judgment and Olive Air may suspend the provision of the services until payment has been made in full and in cleared funds. Olive Air reserves its right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1988.
- 8.7 The customer shall pay all amounts due under the contract in full without any deduction or withholding except as required by law and the customer shall not be entitled to assert any credit, set-off or counterclaim against Olive Air in order to justify withholding payment of any such amount in whole or in part. Olive Air may, without limiting its other rights or remedies, set off any amount

owing to it by the customer against any amount payable by Olive Air to the customer.

8.8 When supplying goods, the risk in the goods shall pass to the customer on completion of delivery.

8.9 The title of the goods shall not pass to the customer until payment for the total contract value has been made by the customer.

9. EQUIPMENT

9.1 The customer shall be responsible for providing suitable and secure storage facilities for all equipment and materials used by Olive Air in connection with the provision of the services and for complying with current health and safety and related legislation regarding such storage.

9.2 All equipment and materials stored at the customer's premises shall at all times remain the property of Olive Air.

9.3 The customer shall indemnify and keep indemnified Olive Air against all costs, claims, losses and liability incurred by Olive Air in repairing or replacing any of its equipment and materials which are lost, damaged or destroyed at the customer's premises other than due to the neglect or default of Olive Air or any of its employees or agents.

10. WARRANTIES (INSTALLATION SERVICES ONLY)

10.1 Upon the delivery and installation of the goods the customer will benefit from the following warranties (insofar as they apply at the date of installation):

10.1.1 All Mitsubishi Electric equipment benefit from a 5-year parts only warranty

10.1.2 All Fujitsu equipment benefit from a 5-year parts only warranty

10.1.3 All Daikin equipment benefit from a 3-year parts only warranty

10.1.4 All other systems are subject to manufacturer warranty terms

10.2 In cases of installation of goods, Olive Air offers a labour and parts warranty for the duration of 1 year.

- 10.3 In cases of repair services, the supplied part benefits from 1-year parts and labour warranty. For the avoidance of doubt should the system fail due to another part, this falls outside the scope of the warranty provided.
- 10.4 All warranties outlined in Clauses 10.1 and 10.2 are subject to yearly servicing being completed by a person or company who is certified to carry out such servicing. Proof of servicing and contractor's qualification will be required in the event of a warranty claim. Servicing can be completed by Olive Air for an additional charge please contact us on 01473 511394 or 07877 512906 for further details.
- 10.5 Any warranty under Clauses 10.1 and 10.2 may become null and void if any other contractor carries out any works on any unit or system covered under this contract without the prior written agreement from Olive Air.
- 10.6 For the avoidance of doubt no warranty is provided for any service or maintenance works as described in Clauses 11 and 12.

11. SERVICE MAINTENANCE / PLANNED PREVENTATIVE MAINTENANCE

- 11.1 Service maintenance visits are scheduled appointments to complete a regular service of equipment. Annual service maintenance visits are in most cases a stipulation of many manufacturer warranties. Failure to complete an annual service maintenance may render warranties null and void. If Olive Air installed your product then please refer to the warranty conditions outlined in Clause 10.
- 11.2 The cost of the service maintenance / planned preventative maintenance visit will be specified within the contract. If stock valves and chemical replacements are required these will be charged at an additional cost. The cost of any further repairs or advisories will be stipulated within a further written quotation.
- 11.3 Where Olive Air attends for any service maintenance or planned preventative maintenance visit and the system has an existing fault upon the engineer's arrival, Olive Air reserves the right to charge the call-out fees as specified in Clause 12. It is the customer's responsibility to inform Olive Air if the system is not in a serviceable condition and if a fault does exist customers should

inform Olive Air ahead of the scheduled appointment and enquire about a reactive breakdown and repair visit as described in Clause 12.

11.4 Olive Air reserves the right to charge a cancellation fee of £90 + VAT if work is cancelled within 24 hours of the agreed start date.

11.5 Olive Air reserves the right to charge the customer for the scheduled labour time, actual travel time and mileage costs should the customer fail to meet the appointment time howsoever arising.

11.6 Olive Air shall not be liable for any faults found during the service unless caused by Olive Air.

12. REACTIVE BREAKDOWN VISIT AND REPAIRS

12.1 Reactive breakdown visits are investigations into reported faults. Customers accept there is no guarantee for Olive Air to fix any issues upon attendance.

12.2 Where possible Olive Air will complete repairs during the initial attendance and the cost of the parts/material required during this attendance will be agreed with the client and then invoiced in full to the client. The customer will be liable to pay all invoices in accordance with Clause 8.

12.3 Where reactive breakdown visits and repairs are necessary the call out are charged as follows:

12.3.1

Minimum Call Out Fee + VAT

Hourly rate after the initial two hours + VAT

Mileage per mile + VAT

12.4 For the purposes of Clause 12.3 the following applies:

12.4.1 The minimum call-out fee includes 2 hours of Olive Air's time; any additional time will be charged at the applicable hourly rate. The time taken on each job will incorporate the outbound and return journey along with the time spent at the customer's address.

12.4.2 In all circumstances the mileage cost (outbound and return journey) will be charged in addition to the minimum call out fee. Olive Air may use their discretion to determine any travel costs depending on the location of the customer's address. The mileage cost will be calculated from Olive Air's office address: Unit 13, 4 Berwick Road, Ipswich, IP3 9RY to the customer's address.

12.4.3 All material used during the call out will be charged separately in accordance with Clause 12.2

12.5 Olive Air reserves the right to charge a cancellation fee of £90 + VAT if work is cancelled within 24 hours of the agreed start date. Olive Air reserves the right to charge the customer for the scheduled labour time, actual travel time and mileage costs should the customer fail to meet the appointed time howsoever arising.

13. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

13.1 Nothing in these Conditions shall limit or exclude Olive Air's liability for:

13.1.1 death or personal injury caused by its negligence, or the negligence of its employees; or

13.1.2 fraud or fraudulent misrepresentation; or

13.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or as may have been replaced or amended by the Consumer Rights Act 2015; and

13.1.4 any other liability that cannot be limited or excluded by law.

13.2 Subject to Clause 13:

13.2.1 Olive Air shall under no circumstances whatever be liable to the customer, whether in contract, tort (including negligence), breach of

statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the contract; and

13.2.2 Olive Air's total liability to the customer in respect of all other losses arising under or in connection with the contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the services provided by Olive Air.

13.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 (as may have been replaced or amended by the Consumer Rights Act 2015) are, to the fullest extent permitted by law, excluded from the contract.

13.4 This Clause 13 shall survive termination of the contract.

14. CONFIDENTIALITY

14.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 14.2.

14.2 Each party may disclose the other party's confidential information:

14.2.1 to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 14; and

14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the contract.

15. TERMINATION AND CONSEQUENCES

15.1 Without limiting its other rights or remedies, Olive Air may terminate the contract with immediate effect by giving written notice to the other party if:

15.1.1 the other party commits a material breach of its obligations under this contract and (if such breach is remediable) fails to remedy that breach within 7 days after receipt of notice in writing of the breach;

15.1.2 the other party (being an individual) is the subject of a bankruptcy petition or order, or (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party;

15.1.3 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

15.2 Without limiting its other rights or remedies, Olive Air may terminate the contract:

15.2.1 by giving the customer written notice;

15.2.2 with immediate effect by giving written notice to the customer if the customer fails to pay any amount due under this contract on the due date for payment.

15.3 The customer shall following termination of the contract for any reason:

15.3.1 allow Olive Air access to its premises at all reasonable times for the purpose of delivering or collecting any equipment and materials belonging to Olive Air and which is stored on the customer's premises. If the customer fails to do so, then Olive Air may enter the customer's premises and take possession of them; and

15.3.2 immediately pay to Olive Air all of its outstanding unpaid invoices and interest and in respect of goods and/or services supplied but for which no invoice has been submitted, Olive Air may submit an invoice, which shall be payable immediately on receipt.

15.4 Without limiting its other rights or remedies, Olive Air shall have the right to suspend provision of the services under the contract or any other contract between the customer and Olive Air if the customer becomes subject to any of the events listed in Clause 15.1.2 or Olive Air reasonably believes that the customer is about to become subject to any of them, or if the customer fails to pay any amount due under this contract on the due date for payment.

15.5 On termination of the contract for any reason:

15.5.1 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the contract which existed at or before the date of termination or expiry; and

15.5.2 Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. RIGHT OF CANCELLATION (CONSUMERS ONLY)

16.1 Under the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013, subject to Clause 16.4 consumers (individual customers rather than businesses) have the right to cancel this contract during a period of 14 calendar days from the date these terms and conditions have been provided to them.

16.2 If you wish to cancel the contract you must do so in writing and deliver personally or send by email or post to Olive Air Limited, 69 Wilkinson Drive, Grange Farm, Kesgrave, Suffolk, IP5 2DS or info@oliveair.co.uk

16.3 The notice of cancellation is deemed to be served in accordance with the notice provisions outlined in Clause 19.

16.4 If you have already given written approval for the work to begin before the end of the cancellation period, the customer will be required to pay Olive Air for any goods and/or services already provided.

16.5 For the avoidance of doubt the right of cancellation contained in this Clause does not extend to business customers or where goods and/or services are

purchased wholly or mainly for use in connection with your trade, business, craft, or profession, even if you are an individual.

17. COMPLAINTS

If a problem arises or you are dissatisfied with the goods and/or services, Olive Air have a comprehensive complaints policy, see <https://www.oliveair.co.uk/wp-content/uploads/2022/09/TTF11-Model-Complaints-Policy.pdf>

18. FORCE MAJEURE

18.1 For the purposes of this contract, “**Force Majeure Event**” means an event beyond the reasonable control of Olive Air including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Olive Air or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

18.2 Olive Air shall not be liable to the customer as a result of any delay or failure to perform its obligations under this contract as a result of a Force Majeure Event.

18.3 If the Force Majeure Event prevents Olive Air from providing any of the services for more than four weeks, Olive Air shall, without limiting its other rights or remedies, have the right to terminate this contract immediately by giving written notice to the customer.

19. NOTICES

19.1 Any notice given in connection with these Conditions shall be in writing and shall be correctly served if sent to the party’s registered or principal place of business (or residence in the cases of consumers) by hand, prepaid first class letter post or email.

19.2 Any notice shall be deemed to have been received:

19.2.1 If delivered by hand, at the time the notices were left at the proper address;

- 19.2.2 If sent by pre-paid first-class post, on the second business day after posting
- 19.2.3 If sent by email, at the time of transmission, or if the time fall outside of Business Hours in place of receipt when Business Hours resume.
- 19.3 Notices addressed to Olive Air shall be marked for the attention of Tom Oliver.

20. GENERAL

20.1 Assignment and subcontracting.

20.1.1 Olive Air may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the contract and may subcontract or delegate in any manner any or all of its obligations under the contract to any third party or agent.

20.1.2 The customer shall not, without the prior written consent of Olive Air, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the contract.

20.2 Waiver. A waiver of any right under the contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

20.3 Severance

20.3.1 If a court or any other competent authority finds that any provision of the contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the contract shall not be affected.

20.3.2 If any invalid, unenforceable or illegal provision of the contract would be valid, enforceable and legal if some part of it were deleted, the

provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

- 20.4 No Partnership or Agency. Nothing in the contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 20.5 Third Parties. A person who is not a party to the contract shall not have any rights under or in connection with it.
- 20.6 Variation. Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the contract, shall only be binding when agreed in writing and signed by the parties (or their authorised representatives).
- 20.7 Status of Agreement. In the event of any conflict between these Conditions and the provisions of the purchase order form, the purchase order form shall prevail.
- 20.8 Governing Law and Jurisdiction. This contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Olive Air



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Olive Air