

Niftylift Limited Conditions of Sale (Business Customers) *Your attention is drawn in particular to the limitation of liability*

General

These Conditions apply to the contract ('Contract') between Niftylift and the Customer for the sale and purchase of the Equipment 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.

The Customer's order for the Equipment ('Order') constitutes an offer by the Customer to purchase the Equipment in accordance with these Conditions. The Customer shall ensure that the terms of the Order are complete and accurate. The Order shall only be deemed to be accepted when Niftylift issues a written acceptance of the Order, at which point the Contract shall come into existence.

The Contract 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 Niftylift which is not set out in the Contract. Any samples, drawings, descriptive matter, or advertising issued by Niftylift and any descriptions or illustrations contained in Niftylift's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Equipment described in them. They shall not form part of the Contract or any other contract between Niftylift and the Customer for the sale of the Equipment.

A quotation for the Equipment given by Niftylift shall not constitute an offer. A quotation shall only be valid for 30 days from its date of issue.

Delivery

Niftylift shall deliver the Equipment to the location stated in the Order at any time after Niftylift notifies the Customer that the Equipment is ready.

Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Niftylift shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure event or the Customer's failure to provide Niftylift with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

Quality

Niftylift warrants that on delivery and for a period of 12 months thereafter the Equipment shall: conform in all material respects with its description and any specification stated in the Order; be free from material defects in design, material and workmanship; be of satisfactory quality (within the meaning of the Sale of Equipment Act 1979); and be fit for any purpose held out by Niftylift.

Subject to the following clause, if the Customer gives notice in writing to Niftylift within a reasonable time of discovery that the Equipment does not comply with the warranty set out above and Niftylift is given a reasonable opportunity to examine the Equipment, Niftylift shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full. Niftylift shall have no further liability to the Customer in respect of the Equipment's failure to comply with the warranty set out above.

Niftylift shall not be liable for the Equipment's failure to comply with the warranty set out above if: the Customer makes any further use of such Equipment after giving notice of non-compliance; or the defect arises because the Customer fails to follow Niftylift's instructions as to the storage, commissioning, installation, use and maintenance of the Equipment; or the defect arises as a result of Niftylift following any drawing, design or specification supplied by the Customer; or the Customer alters or repairs the Equipment without the written consent of Niftylift; or the defect arises as a result of fair wear and tear, wilful damage, the Customer's negligence, or abnormal storage or working conditions.

Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract. These Conditions shall apply to any repaired or replacement Equipment supplied by Niftylift.

Title and Risk

The risk in the Equipment shall pass to the Customer on completion of delivery. Title to the Equipment shall not pass to the Customer until Niftylift has received payment in full (in cash or cleared funds) for the Equipment and for any other goods or services that Niftylift has supplied to the Customer.

Until title to the Equipment has passed to the Customer, the Customer shall: hold the Equipment on a fiduciary basis as Niftylift's bailee; not remove, deface or obscure any identifying mark on or relating to the Equipment; maintain the Equipment in satisfactory condition; and keep it insured against all risks for its full price from the date of delivery.

Price and Payment

The price of the Equipment shall be the price set out in the Order. Niftylift may, by giving notice to the Customer at any time before delivery, increase the price of the Equipment to reflect any increase in the cost of the Equipment that is due to any factor beyond Niftylift's control. The price of the Equipment is exclusive of

VAT and the costs and charges of packaging, insurance and transport of the Equipment.

The Customer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by Niftylift. Time of payment is of the essence.

If the Customer fails to make any payment due to Niftylift under the Contract by the due date for payment then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base lending rate from time to time.

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 Niftylift in order to justify withholding payment of any such amount in whole or in part.

Limitation of Liability

Nothing in these Conditions shall limit or exclude Niftylift's liability for: death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); fraud or fraudulent misrepresentation; or breach of the terms implied by section 12 of the Sale of Equipment Act 1979; or defective products under the Consumer Protection Act 1987; or any matter in respect of which it would be unlawful for Niftylift to exclude or restrict liability.

Subject to the above clause: Niftylift shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract.

Niftylift has obtained product liability insurance cover for claims not exceeding £10,000,000 in aggregate per year. Accordingly, and subject to the two preceding paragraphs, Niftylift's liability to the Customer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, is limited to £5,000,000 in any 12 month period and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

Force Majeure

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A 'Force Majeure Event' means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable.

General

The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Niftylift.

Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax or e-mail.

If any court or 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 to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

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.

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. 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.

A person who is not a party to the Contract shall not have any rights under or in connection with it. Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Customer.

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation 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.