

TERMS AND CONDITIONS OF SALE

ACCEPTANCE OF GOODS All contracts of sale made by METCLOUD Limited (hereinafter called "METCLOUD") shall be deemed to incorporate these terms and conditions which shall prevail over any other documentation or communication from the party with whom the company is dealing ("the Customer"). All orders are accepted and fulfilled subject to these conditions of sale unless otherwise varied by agreement in writing. In addition, any amount invoiced for Managed Services will be subject to the terms and conditions of the Managed Service Agreement between METCLOUD and the Customer.

CARRIAGE, POST AND PACKING Charges are made for all delivery options and will be invoiced to the Customers at the prevailing rate.

PRICES Goods are invoiced at the prices ruling at the time of ordering. VAT will be added to all goods or services supplied at the prevailing rate.

DELIVERY (a) Any time or date for delivery stated by METCLOUD shall be treated as an estimate only. Whilst every effort will be made to despatch goods on time, no liability can be accepted by METCLOUD for failure to deliver within advertised times. METCLOUD will not be liable for any loss or damage whatsoever (including consequential loss or loss of profit) arising directly or indirectly from any delay in the delivery of all or any of the goods howsoever caused. (b) METCLOUD will accept no liability for shortages, damage to or non-delivery of goods unless the Customer notifies METCLOUD in writing within 3 working days of receipt of goods. (c) The Customer shall be bound to accept the goods when they are ready for delivery by METCLOUD and delivery shall be deemed to take place when the goods are delivered to the Customer at the nominated address for delivery or to a nominated carrier as the case may be whereupon the risk of loss, breakage or any other damage whatsoever shall pass to the Customer. (d) If METCLOUD fails to deliver the goods for any reason other than any cause beyond METCLOUD's reasonable control or the Customer's fault, METCLOUD is accordingly liable to the Customer (in the cheapest available market) to replace not delivered. Furthermore, METCLOUD shall not be liable for loss of profit or other consequential loss and its liability (whether in contract or otherwise) shall in no case exceed the price of the article or articles in question. (e) If for any reason the Customer cannot accept delivery of the goods at the time when the goods are due and ready for delivery METCLOUD may elect to either store the goods pending their actual delivery and the Customer shall be liable to METCLOUD for the costs (including insurance) of so doing but METCLOUD shall be under no obligation to insure the goods in storage and the risk of any loss or damage to the goods howsoever arising shall be borne by the Customer, or may elect to sell the goods. (f) at the best price readily obtainable (after deducting all reasonable storage and selling expenses) and charge the Customer for the shortfall below the price under the contract.

PAYMENT TERMS Unless otherwise expressly stipulated by METCLOUD, Credit Account invoices are due and payable in sterling 30 days from the date of the invoice. If an invoice becomes overdue for payment the full outstanding amount becomes overdue and payable. METCLOUD reserves the right to charge interest on overdue amounts at 2% above the base lending rate from the time being in force calculated on a daily basis. Payment shall be deemed to have been received only when the full amount of the value of the goods as invoiced has been credited to METCLOUD's bank account without recourse or METCLOUD has received the full amount in cash.

PRODUCT SPECIFICATIONS, DIMENSIONS ETC Whilst the company will make every endeavour to deliver the goods as they are advertised, actual dimensions, specifications and quantities may in certain circumstances vary from those so advertised. METCLOUD reserves the right without prior notice to vary the dimensions, specifications and quantities of any goods without any liability to the Customer arising directly or indirectly from any such variation.

SUPPLY In the event that METCLOUD is unable to supply goods as ordered by the Customer, METCLOUD reserves the right to offer goods of equal or superior quality comparable to or compatible with the goods ordered at the same price.

PROPERTY AND TITLE No property or title to goods shall pass to the Customer unless and until the full amount of the goods as invoiced has been credited to METCLOUD's bank account without recourse or METCLOUD has the full amount in cash and the Customer shall indemnify METCLOUD against any loss or damage to the goods prior to the passing of property therein whilst in the Customer's custody. Risk of damage to or loss of the goods shall pass to the Customer at the time of delivery or, if the Customer wrongly fails to take delivery of the goods, at the time when METCLOUD has tendered delivery of the goods.

FORCE MAJEURE In the event that METCLOUD is prevented from carrying out its obligations as a result of a cause beyond its control such as but not limited to Acts of God, War, Strikes, Lock-outs, Flood and Failure of third parties to deliver goods, METCLOUD shall be relieved of its obligations and liabilities as long as such fulfilment is prevented.

SOFTWARE (a) The Customer is deemed to have ascertained the suitability and validity for its purpose of any Software and METCLOUD shall be under no liability whatsoever in respect of fitness for purpose of such Software. (b) Copyright subsists in all Software whether it is METCLOUD's proprietary Software or Software supplied by METCLOUD under licence. The Software remains at all times subject to the rights of the owner of copyright in the Software. All Software is supplied to the Customer only under the Terms and Conditions of the applicable licence agreement (whether this has been signed and/or returned to METCLOUD or not). No part of the Software may be copied, reproduced, or utilised in any form by any means without the prior written approval of METCLOUD except for archival or other purposes as permitted by the licence agreement or the law. (c) It is the sole responsibility of the Customer to comply with all the Terms and Conditions of the licence agreement, and the Customer is hereby notified that any failure to comply with such Terms and Conditions may result in the revocation of such licence agreement. (d) Logo's, product names, software manuals, documentation and other support materials are either patented, copyright, trademarked, trade secret or otherwise proprietary to METCLOUD or Software supplier. The Customer agrees not to remove any such notices and product identifications. (e) The Customer agrees that all techniques, algorithms, and processes contained in the Software, or any modification or extraction thereon constitute trade secrets and will be safeguarded by the Customer and in no event shall the Customer exercise less than due diligence and care in maintaining that confidentiality. (f) Software is warranted only in accordance with the terms of any licence agreement governing its supply. (g) The Customer will complete registration forms associated with each item of Software and return them to METCLOUD.

CANCELLATION Since under normal circumstances goods are ordered by METCLOUD on the same day as receipt of the order, METCLOUD reserves the right not to accept cancellation of orders. Where cancellation is accepted METCLOUD reserves the right to indemnify from the Customer in full the costs incurred.

RETURNS Delivered items, undamaged, unopened and fully marketable may be returned with the prior agreement of METCLOUD which reserves the right to make a handling administration charge.

WARRANTY All goods sold by METCLOUD are warranted free from defects in materials and workmanship. If METCLOUD shall receive a written complaint from a customer in respect of goods found to be defective in respect of materials or workmanship only within 30 days of delivery METCLOUD after it has had reasonable time to investigate the same and examine the goods in dispute shall be entitled at its option to repair or replace the defective goods or refund the purchase price. No claim will be entertained in respect of any goods which have been repaired or altered in any way or have been the subject of any accident or damage caused by any innocent, wilful, or negligent act or omission of the Customer its employees or agents or through use contrary to the manufacturer's instructions by the Customer, its employees or agents or by circumstances beyond the control of METCLOUD or goods which cannot be shown to have been supplied by METCLOUD. METCLOUD offers a no charge collection and delivery service applies to UK mainland only. For products returned from outside the UK mainland the Customer is responsible for delivery charges to and from METCLOUD premises and for any charges and duties levied on importation and for compliance with HM Customs and Excise Regulations in all respects of importation and re-export.

COMPANY LIABILITY METCLOUD shall under no circumstances whatsoever be liable for any indirect or consequential loss howsoever caused. (b) METCLOUD liability in respect of breach or non-performance of any order shall be limited to the invoiced value to which the claim relates. (c) Goods are not tested or sold as fit for any particular purpose or for use under any specific conditions.

MISCELLANEOUS If any provision hereof shall be held to be invalid illegal or unenforceable the validity and enforceability of the remaining provisions shall not be in any way affected or impaired thereby. (b) Waiver by METCLOUD of any breach of these conditions or any granting of time or indulgence by METCLOUD to the Customer shall in no way effect the rights of METCLOUD hereunder. (c) All headings are for convenience only and do not form part of these Terms and Conditions. (d) Any notice of demand to be given hereunder shall be in writing and shall be delivered by hand or sent by first class prepaid letter to last known address of the party to be notified and shall be deemed to have been served immediately, if delivered by hand and forty-eight hours after posting if posted as aforesaid. (e) The Laws of England shall govern the validity construction and performance of any contract to which these Terms and Conditions apply and the parties submit to the jurisdiction of the English Court. (f) METCLOUD may at its discretion record telephone transactions with its customers. This is for staff training purposes only. All tapes after review are subsequently erased. (g) Should an end user wish to re-arrange consultancy dates that have been agreed, the following surcharges will be applied: Less than 14 days' notice, a surcharge of 20% will be applied, less than 7 days' notice, a surcharge of 35% will be applied, and less than 2 days' notice a surcharge of 50% will be applied. This charge will apply in the month of cancellation. The full consultancy fee will be charged on completion.

CONTACT US If you wish to provide comments or exercise any of your rights, you can: **write to:** METCLOUD 62 Hagley Road, 5th Flr Lyndon House, Birmingham, B16 8PE or **email:** sales@metcloud.com