

SANIARCH LIMITED
(crn: 12709948)
TERMS OF SUPPLY

The Customer's attention is drawn to the provisions of clause 10 (Limitation of Liability)

1. INTERPRETATION

The definitions and rules of interpretation in Schedule 1 apply in these Conditions.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Goods (or where applicable Goods and Services) in accordance with these Conditions. The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order, at which point the Contract shall come into existence (**Commencement Date**).

2.2 These Conditions apply to the Contract to the exclusion of any other terms.

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier are issued or published for the sole purpose of giving an approximate idea of the and/or Goods Services described in them. They shall not form part of the Contract nor have any contractual force.

2.4 Any quotation given by the Supplier shall not constitute an offer, and is valid for a period of 20 Business Days from its date of issue.

3. GOODS

The Goods are described on the Supplier's website. The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

4. DELIVERY OF GOODS

4.1 Each delivery of the Goods shall be accompanied by a delivery note which shows the date of the Order, the quantity of the Goods, and any special storage instructions.

4.2 The Supplier shall deliver the Goods to the location set out in the Order (**Delivery Location**). Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or by the Customer's failure to provide the Supplier with adequate delivery (or other) instructions.

4.3 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready for delivery; and
- (b) the Supplier may store the Goods until actual delivery takes place and charge the Customer for all related costs and expenses (including insurance).

4.4 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

5. WARRANTIES

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall:

- (a) conform in all material respects with their description;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (d) be fit for any purpose made known to the Supplier by the Customer, provided always that the Customer has made available a flat, level surface for the installation of the Goods.

5.2 If Goods do not comply with the warranties set out in clause 5.1 then, subject to clause 5.3, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full provided that:

- (a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1; and
- (b) the Supplier is given a reasonable opportunity of examining such Goods to assess whether the Goods are defective.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow the Supplier's instructions as to the storage, installation, use or maintenance of the Goods;
- (c) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (d) the Customer alters or repairs such Goods other than in accordance with the training delivered by the Supplier; or
- (e) the Goods differ from their description as a result of changes made to ensure they comply with any applicable statutory or regulatory standards.

5.4 The Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1 except as provided in this clause 5.

5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5.6 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

6. TITLE AND RISK

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods (and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due), in which case title to the Goods shall pass at the time of payment of all such sums.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) ensure that the ground (or other surface) on which the Goods are to be installed is level and flat;

- (b) co-operate with the Supplier in all matters relating to the Goods and/or Services;
- (c) comply with all applicable laws, including health and safety laws; and
- (d) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises and other facilities as reasonably required by the Supplier to deliver the Goods and provide the Services.

7.2 If the Supplier'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**):

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend delivery of the Goods and/or performance of the Services until the Customer remedies the Customer Default;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 7.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

8. CHARGES AND PAYMENT

8.1 The price for Goods and the charges for any Services shall be as set out in the Order and shall be payable on the dates shown in the Order.

8.2 The Supplier reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

- (a) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- (c) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

8.3 The Customer shall pay each invoice submitted by the Supplier in full and in cleared funds to a bank account nominated in writing by the Supplier. Time for payment shall be of the essence of the Contract.

8.4 All amounts payable by the Customer under the Contract are exclusive of any applicable value added tax chargeable from time to time (VAT). Where applicable the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

8.5 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 11 (Termination), the Customer shall pay interest at the statutory default rate for commercial debts on the overdue sum.

9. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

9.1 All Intellectual Property Rights in the Goods and/or arising out of or in connection with the Services shall be owned by the Supplier.

9.2 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party (or of any member of the group of companies to which the other party belongs), except as permitted by clause 9.3.

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

- (a) to its employees, officers, representatives 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 9.3; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.4 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.

10. LIMITATION OF LIABILITY: THE Customer's attention is particularly drawn to this clause.

10.1 The Supplier accepts liability, subject to the terms of this clause 10, in respect of loss or damage caused by or arising from the SaniArch full-body sanitising unit, but not for loss or damage arising from the use of the sanitiser fluid. A free sample of fluid is included with each order but no liability is accepted by the Supplier in respect thereof.

10.2 The Supplier has obtained insurance cover in respect of its own legal liability for claims in respect of the Goods supplied. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any losses which may not be recoverable from the Supplier.

10.3 The restrictions on liability in this clause 10 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise. Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

10.4 Nothing in the Contract limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence, or fraud or fraudulent misrepresentation.

10.5 Subject to clause 10.4, the Supplier's total liability to the Customer in respect of any Order shall not exceed the total price of the Order.

10.6 Subject to clause 10.4, the following types of loss listed are wholly excluded by the parties:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts; and
- (d) loss of anticipated savings.

10.7 The Supplier has given commitments as to compliance of the Goods and Services with certain standards, in clause 5. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

10.8 This clause 10 shall survive termination of the Contract.

11. TERMINATION

11.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach 14 days after receipt of notice in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

11.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due to the Supplier on the due date for payment.

11.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due to the Supplier on the due date for payment, the Customer becomes subject to any of the events listed in clause 11.1(b) to clause 11.1(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

11.4 On termination of the Contract:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

11.5 Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

12. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for six weeks, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.

13. GENERAL

13.1 Assignment and other dealings

- (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

13.2 Notices

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the email address shown on the relevant Order.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 13.2(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

13.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 13.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

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

13.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

13.6 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

13.7 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

13.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

13.9 **Governing law and Jurisdiction.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule 1

1. DEFINITIONS:

Business Day:	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Commencement Date:	has the meaning given in clause 2.1.
Conditions:	these terms and conditions as amended from time to time in accordance with clause 13.8.
Contract:	the contract between the Supplier and the Customer for the supply of Goods and (where relevant) Services in accordance with the Customer's Order and these Conditions.
Customer:	the person or firm who purchases the Goods and/or Services from the Supplier.
Deliverables:	the deliverables set out in the Order produced by the Supplier for the Customer.
Delivery Location:	has the meaning given in clause 4.2.
Force Majeure Event:	has the meaning given to it in clause 12.
Goods:	the "SaniArch" full-body sanitising unit(s) described in the Order.
Intellectual Property Rights:	all intellectual property rights (whether registered or unregistered) relating to the Goods and/or Services (including patents, utility models, copyright, moral rights, trade marks and service marks, business names and domain names, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Order:	the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form.
Services:	training on the operational and maintenance of the Goods supplied, as indicated in the Order.
Supplier:	SaniArch Limited registered in England and Wales with company number 12709948.
Warranty Period:	has the meaning given in clause 5.1.

2. INTERPRETATION:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes email.