

BUSINESS IT SUPPORT TEAM LIMITED

TERMS AND CONDITIONS OF SALE

The buyer's attention is in particular drawn to the provisions of condition 10.4.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Buyer: the person, firm or company who purchases the Goods and/or Services from the Company.

Company: BUSINESS IT SUPPORT TEAM LIMITED

Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods and/or Services, incorporating these conditions.

Delivery Point: the place where delivery of the Goods is to take place under condition 4.

Goods: any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

Services: any services agreed to be supplied by the Company to the Buyer as detailed in the Contract

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.2 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document). No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.2 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods or Services shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.3 Each order or acceptance of a quotation for Goods and/or Services by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods and/or Services subject to these conditions.

2.4 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods and/or Services to the Buyer. The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.5 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

2.6 No order shall be cancelled by the Buyer after it has been accepted by the Company.

3. DESCRIPTION

3.1 The quantity and description of the Goods and/or Services shall be as set out in the Company's quotation or acknowledgement of order. All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company'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 and this is not a sale by sample.

4. DELIVERY

4.1 We aim to deliver within 48 hours of an order being received by us, however, any dates specified by the Company for delivery of the Goods and/or Services are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.2 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods and/or Services (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract.

4.3 If for any reason the Buyer fails to accept delivery of any of the Goods and/or Services when they are ready for delivery, or the Company is unable to deliver the Goods and/or Services on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

- (a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
- (b) the Goods and/or Services shall be deemed to have been delivered; and

- (c) the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.4 The quantity of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

4.5 The Company shall not be liable for any non-delivery of Goods unless the Buyer gives written notice to the Company of the non-delivery within 3 days of the date when the Goods would in the ordinary course of events have been received.

4.6 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

5. RETURNS

5.1 The Company is under no obligation to accept returns unless the Goods are damaged in transit or there is a substantiated complaint relating to the quality of the Goods. Food, drink and chemical cleaning products will not be accepted as a return unless they are defective.

5.2 If the Company (at its option) does accept the return of any Goods then this will be subject to a restocking fee. The Company will notify the Buyer of the restocking fee prior to accepting the return. The minimum restocking fee that will be charged will be equal to 15% of the invoiced amount for the Goods returned. A collection charge may also be made for the returned Goods if the Company collects the Goods.

5.3 A request for the return of Goods must be sent to your usual account manager and where necessary the appropriate company paperwork must be completed.

5.4 The Company will not accept the return of Goods where the delivery date was in excess of 90 days.

6. RISK/TITLE

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

- (a) the Goods; and
- (b) all other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

- (a) hold the Goods on a fiduciary basis as the Company's bailee;
- (b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
- (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- (d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.

6.4 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company. The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them. Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

6.5 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 5 shall remain in effect.

7. PRICE

7.1 Unless otherwise agreed by the Company in writing, the price for the Goods and/or Services shall be the price set out in the Company's price list published on the date of delivery or deemed delivery. The price for the Goods and/or Services shall be exclusive of any value added tax and all costs or charges in relation to loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods and/or Services.

8. PAYMENT

8.1 Payment of the price for the Goods and/or Services is due in pounds sterling:

- (a) in the case of a Buyer that does not have a credit account with the Company upon delivery or receipt of the invoice (whichever shall be the later); or
- (b) in the case of a Buyer that has a credit account within 30 days from the date of the invoice.

8.2 Time for payment shall be of the essence. No payment shall be deemed to have been received until the Company has received cleared funds. All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

- 8.3 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 8.4 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

9. QUALITY

- 9.1 Goods are sold with the manufacturer's warranty.
- 9.2 The Company warrants that (subject to the other provisions of these conditions) upon delivery, and for a period of 12 months from the date of delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
- 9.3 The Company shall not be liable for a breach of the warranty in condition 9.2 unless:
- (a) the Buyer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 14 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Buyer's cost for the examination to take place there.
- 9.4 The Company shall not be liable for a breach of the warranty in condition 9.2 if:
- (a) the Buyer makes any further use of such Goods after giving such notice; or
 - (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
 - (c) the Buyer alters or repairs such Goods without the written consent of the Company.
- 9.5 Subject to condition 9.3 and condition 9.4, if any of the Goods do not conform with the warranty in condition 9.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Buyer's expense, return the Goods or the part of such Goods which is defective to the Company.
- 9.6 If the Company complies with condition 9.5 it shall have no further liability for a breach of the warranty in condition 9.2 in respect of such Goods.

10. LIMITATION OF LIABILITY

10.1 Subject to condition 4, condition **Error! Reference source not found.** and condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of these conditions;
- (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3:

- (a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- (b) the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. CONFIDENTIALITY

11.1 The Buyer shall keep the terms of the Contract and any pricing information confidential.

12. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to

circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

13. GENERAL

- 13.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 13.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 13.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 13.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 13.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

14. COMMUNICATIONS

- 14.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- (a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
 - (b) (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.

- 14.2 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
 - (b) if delivered by hand, on the day of delivery; or
 - (c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 14.3 Communications addressed to the Company shall be marked for the attention of a director of the Company.