

# ALLTRADE DISTRIBUTION LTD

## Terms and Conditions of Trading

Your attention is in particular drawn to the provisions of condition 9 below.

### 1 Application of Terms

1.1 We are Alltrade Distribution Ltd (company number 03100320). Where we refer to "you" or "your" in these terms and conditions, this means the customer purchasing goods or services from us. We only provide goods or services to business customers. If you are a consumer, you will not be permitted to buy from us.

1.2 Subject to any variation expressly agreed in writing by us, the contract between you and us shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which you may purport to apply under any purchase order, confirmation of order, specification or other document, or which are implied by trade, custom, practice or course of dealing). In continuing to deal with us you accept that these Terms and conditions prevail

1.3 Each order or acceptance of a quotation for goods or services by you shall be deemed to be an offer by you to buy goods or services subject to these conditions.

1.4 No order placed by you shall be deemed to be accepted by us until a written acknowledgement of order is issued by us or (if earlier) we deliver the goods to you.

1.5 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us, do not amount to a representation of any sort and you should not rely on them in entering into any contract with us.

1.6 A reference to a statute or statutory provision includes any subordinate legislation made under it and any amendments or re-enactments to it from time to time.

### 2 Price

2.1 Unless otherwise stated, the price quoted excludes VAT, delivery or other additional costs and all other applicable rates and taxes which will be charged at the rates applying at the time of delivery.

2.2 Unless otherwise stated, our quotations lapse after 30 days and the price quoted will be an illustrative estimate only. The price charged will be our current price for the goods or services at the time of delivery or performance.

2.3 At any time before delivery or performance we may adjust the price to reflect any increase in our costs of supplying the goods or services.

### 3 Delivery

3.1 Any times or dates we may give for delivery are estimates only (unless you pay an agreed charge for guaranteed delivery by a certain time and we have agreed that guaranteed delivery in writing).

3.2 If we fail to deliver within a reasonable time (or by the guaranteed delivery time if agreed under condition 3.1) you may (by informing us in writing) cancel the contract provided that we have not dispatched the goods prior to receipt of the notice by us or the goods have not been specifically obtained by us to fulfil your order.

3.3 Subject to the other provisions of these conditions we 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 (even if caused by our negligence).

3.4 If you have paid an additional charge for a guaranteed delivery time and the goods are delivered after that time you may not reject the goods after they have been dispatched and our liability to you for such delay will be limited to:

3.4.1 refunding the charge made for such guaranteed delivery; or

3.4.2 assigning to you, if possible, the benefit of any claim we may have against our carrier.

3.5 We may deliver the goods in instalments. Each instalment is treated as a separate contract.

3.6 You must ensure that delivery of the goods or services is not unsafe, unlawful or unreasonably difficult and that the delivery premises (or the access to them) is suitable for our vehicles (and we may decline to deliver the goods or services if we reasonably believe that any of these conditions is not met).

### 4 Non-Delivery

4.1 The quantity of any consignment of goods as recorded by us on despatch from our place of business shall be conclusive evidence of the quantity received by you on delivery unless you can provide conclusive evidence to the contrary.

4.2 Our liability for non-delivery of the goods shall be limited at our option 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 Risk

5.1 The goods are at your risk from the time of delivery.

5.2 Delivery takes place either:

5.2.1 at our premises (or our manufacturer's premises) (if you are collecting them or arranging carriage) when you or your carrier collect them; or

5.2.2 at your premises (if we are arranging carriage) when they are made available for unloading.

5.3 You must inspect the goods immediately upon delivery. If any goods are damaged (or not delivered), you must write to tell us within five working days of delivery (or the expected delivery time). You must give us (and any carrier) a fair chance to inspect the damaged goods. You must not dispose of the damaged goods without our written agreement

### 6 Payment terms

6.1 You are to pay us in cash or otherwise in cleared funds on or before delivery, unless you have an approved credit account.

6.2 If you have an approved credit account, payment is due by the end of the month in which goods or materials are supplied but in any event no later than 30 days after the date of our invoice unless otherwise agreed in writing.

6.3 Time for payment shall be of the essence.

6.4 We may accept payment by other methods (such as credit/debit cards or paypal), but a charge of up to 5% of the invoice may apply.

6.5 If you fail to pay us in full on the due date:

6.5.1 we may suspend or cancel future deliveries;

6.5.2 we may cancel any discount offered to you; and

6.5.3 we reserve the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998.

6.6 If you have an approved credit account, we at any point without notice, may withdraw it or reduce your credit limit or bring forward your due date for payment.

6.7 You do not have the right to set off any money you may claim from us against anything you may owe us.

6.8 While you owe money to us, we have a lien on any of your property in our possession.

6.9 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly including financing costs and including legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms

### 7 Title

7.1 Until you pay all debts you may owe us:

7.1.1 all goods supplied by us remain our property;

7.1.2 you must store our goods so that they are kept separate and clearly identifiable as our property;

7.1.3 you must insure our goods (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;

7.1.4 you may use such goods and sell them in the ordinary course of your business unless we revoke that right (by informing you in writing) or you are or become insolvent.

7.2 Your right to possession of the goods shall terminate immediately if you become insolvent and you must inform us (in writing) immediately if you become insolvent.

7.3 You grant us, our 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 your right to possession has terminated, to recover them.

7.4 Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.

7.5 You are not our agent. You have no authority to make any contract on our behalf or in our name.

### 8 Warranties

8.1 Where we are not the manufacturer of the goods, we shall endeavour to transfer to you the benefit of any warranty or guarantee given to us and we give no other warranty

8.2 We warrant (subject to the provisions of these conditions) that on delivery the goods shall:

8.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979

8.2.2 be free from material defect and unless we tell you that the goods are subject to a limited warranty will remain so for 12 months from that time.

8.3 We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.

8.4 We shall not be liable for a breach of any of the warranties in condition 8.2 if:

8.4.1 you make any further use of such goods after giving us notice under condition 8.5 or fail to comply with your obligations under condition 8.5 or

8.4.2 the defect arises because you failed to follow our 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 you otherwise fail to comply with these terms and conditions; or

8.4.3 you alter or repair the goods without our written consent.

8.5 If you believe that we have delivered goods which are defective in materials or workmanship, you must:

8.5.1 inform us (in writing), with full details, as soon as possible and in any event within 5 days; and

8.5.2 give us any access and assistance necessary for us to investigate (we may need access to your premises and product samples).

8.6 If, subject to condition 8.4, the goods are found to be defective in material or workmanship following our investigations, and you have complied with these conditions in full, we will (at our option) replace the goods or refund the price.

8.7 Where we provide any services to you (including programming, project commissioning or system planning), we will do so using reasonable care and skill and use reasonable endeavours to meet any agreed performance dates. All other warranties (other than as expressly agreed in writing between you and us) are excluded.

8.8 Where we provide schematic diagrams or other planning services, we will use reasonable endeavours to ensure these conform to current legislation, regulations or codes of practice at the time of issue but this is no guarantee of operation or function which is your responsibility. We accept no liability for the accuracy of the information or the layout or dimensions of any cable length or building or position of any equipment. It is your responsibility to ensure that the installation is earth bonded in accordance with current legislation and codes of practice. It is also your responsibility to ensure that the equipment installed is suitable for the installation and fitted in accordance with the manufacturer's instructions.

### 9 Liability

9.1 We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits, loss of use, or loss of or damage to data) arising from the contract or the supply of goods or services or their use, even if we are negligent.

9.2 Our total liability to you for damage to property caused by our negligence is limited to £2,000,000.

9.3 For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price paid for the goods or services.

9.4 Nothing in these terms limits or excludes our liability for death or personal injury resulting from our negligence or for fraud, fraudulent misrepresentation, or any other liability which cannot be limited or excluded by applicable law.

### 10 Specification, your obligations and intellectual property

10.1 If we prepare the goods or carry out services in accordance with your specifications or instructions:

10.1.1 you must ensure that the specifications or instructions are accurate.

10.1.2 you must ensure that goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them.

10.2 We reserve the right to make any changes in the specifications of our goods which are necessary to ensure they conform with any applicable safety or other statutory requirements.

10.3 We also reserve the right to make without notice any modifications in our specifications we think necessary or desirable.

10.4 You must co-operate with us in all matters relating to the provision of the services and supply of the goods and provide us any access and assistance required for us to perform or deliver them. You must ensure that any premises not under our control where the services are to be provided comply with applicable health and safety laws.

10.5 Where you provide a specification or any other material for us to use in providing or preparing the goods or services, you grant us a royalty-free licence to use and modify them as we see fit in order to do so.

10.6 All copyright and other intellectual property rights in our goods or services are owned by us or our licensors. We grant you a revocable, personal, non-exclusive licence to use them solely for the purpose of receiving and using the goods or services in your business.

### 11 Return of goods

11.1 Other than where goods are returned due to defects under condition 8, we will only accept the return of goods from you:

11.1.1 by prior written arrangement

11.1.2 on payment of an agreed handling charge (unless the goods were defective when delivered); and

11.1.3 where the goods are as fit for sale on their return as they were on delivery

11.2 NCNR - Where we order and obtain goods or materials not normally held in stock – marked NCNR on our website – we do so on the express understanding that your order cannot be cancelled and that upon such goods or materials becoming available the full balance of the purchase price (if any) is payable – we will not take such goods or materials back nor offer any refund and reserve the right to require payment in full in advance of processing your order.

### 12 Export terms

12.1 Where the goods are supplied by us to you by way of export from the United Kingdom the provisions of this condition 12 shall apply except to the extent that it is inconsistent with any other written agreement between us.

12.2 The 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail to the extent that there is any inconsistency.

12.3 Unless otherwise agreed, the goods are supplied ex works our premises.

12.4 Where the goods are to be sent by us to you by a route including sea transport we are under no obligation to give a notice under section 32(3) of the Sale of Goods Act 1979.

12.5 You are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed). We are not liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.

12.6 We are not liable for death or personal injury arising from the use of the goods delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).

### 13 Cancellation

13.1 If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may then hold (or to which we are committed) for the order.

13.2 We may suspend or cancel the order, by written notice if:

13.2.1 you fail to pay us any money when due (under the order or otherwise);

13.2.2 you become insolvent;

13.2.3 you fail to comply with your obligations under these terms.

13.3 You may not cancel the order unless we agree in writing (and clauses 11.1 and 13.1 then apply).

### 14 Waiver and variations

14.1 Any waiver or variation of these terms is only effective if and to the extent that it is:

14.1.1 made (or recorded) in writing;

14.1.2 signed on behalf of each party; and

14.1.3 expressly states an intention to vary these terms.

### 15 Force majeure

15.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our reasonable control, we may cancel or suspend any of our obligations to you, without liability.

15.2 Examples of circumstances beyond our reasonable control include without limitation act of God, accident, explosion, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

### 16 General

16.1 English law is applicable to any contract made under these terms. The English and Welsh courts have exclusive jurisdiction.

16.2 If you are more than one person, each of you has joint and several obligations under these terms.

16.3 If any of these terms are unenforceable as drafted:

16.3.1 it will not affect the enforceability of any other of these terms; and

16.3.2 if it would be enforceable if amended, it will be treated as so amended.

16.4 We may treat you as insolvent if:

16.4.1 you are unable to pay your debts as they fall due; or

16.4.2 you (or any item of your property) become the subject of any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy); any application or proposal for any formal insolvency procedure; or any application, procedure or proposal overseas with similar effect or purpose.

16.5 Failure or delay by us in enforcing or partially enforcing any provision of these conditions shall not be construed as a waiver of any of our rights under these conditions.

16.6 Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class recorded delivery post or by hand delivery) the other's registered office or principal place of business. All such notices must be signed.

16.7 No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.

16.8 The only statements upon which you may rely in making the contract with us, are those made in writing by someone who is our authorised representative and either:

16.8.1 contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or

16.8.2 which expressly state that you may rely on them when entering into the contract.