

Alfatronix Ltd - Terms of Trading

1. APPLICABILITY

- 1.1 These terms and conditions of business shall govern any contract between you and us for the provision of Goods, (as defined below) to the exclusion of any other terms to which you may seek to impose or incorporate.
- 1.2 A contract between you and us will be formed at the earlier of:
- 1.2.1. an order being placed by you with us under these terms for the supply of Goods, or
 - 1.2.2. 48 hours following the dispatch by us of our Order Confirmation, provided you have not otherwise communicated to us in writing.

2. DEFINITIONS

- 2.1 The following definitions apply to these terms:
Goods: means the Goods specified in the Order Confirmation

Order Confirmation: means the letter written by us to you confirming receipt of your order together with an itemised list of Goods to be supplied.

Approved Credit Account: means a customer account approved by us which allows for a credit period.

3. PRICE

- 3.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
- 3.2 Our quotations lapse after 30 days (unless otherwise stated).
- 3.3 The price quoted excludes the cost of delivery (unless otherwise stated).
- 3.4 Rates of tax and duties on the Goods will be those applying at the time of delivery.
- 3.5 At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the Goods.

4. DELIVERY OF GOODS

- 4.1 Delivery of the Goods by you ("Delivery") shall take place at the location as agreed with and confirmed by us in writing, or if not agreed, at our premises upon notification by us that the Goods are ready for collection.
- 4.2 All Delivery times quoted are estimates only and time shall not be of the essence in relation to Delivery.
- 4.3 If you accept delivery of the Goods (which is deemed to have taken place upon signature on receipt of the Goods by you or any of your representatives, including without limitation by your customers in the event of the Goods being delivered direct to your customer's premises) after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including *indirect or consequential loss*, or increase in the price of the Goods).
- 4.4 We may deliver the Goods in instalments. Each instalment is treated as a separate contract.
- 4.5 We may decline to deliver if:
- 4.5.1. we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
 - 4.5.2. the premises (or the access to them) are unsuitable for our vehicle.
- 4.6 We shall not be liable for any loss caused by any delay in delivery of the Goods caused by a Force Majeure event or your failure to provide us with adequate delivery instructions.

5. RISK

- 5.1 The Goods are held at your risk from Delivery. For the avoidance of doubt, where the Goods are to be delivered direct to any of your customers, signature by any representative of your customers shall be deemed to be good receipt of the Goods being delivered.
- 5.2 You must inspect the Goods or cause the Goods to be inspected on your behalf on Delivery. If any Goods are damaged or not delivered, you must comply with Clause 9.3 below.

6. PAYMENT TERMS

- 6.1 If you have an Approved Credit Account, we will issue an invoice when the Goods are shipped. If you do not have an Approved Credit Account, we will issue you with a pro forma invoice which must be paid in full prior to shipping of the Goods.
- 6.2 If you have an Approved Credit Account, payment is due no later than 30 days after the end of the calendar month in which the goods were invoiced.
- 6.3 If you fail to pay us in full on the due date we may:
- 6.3.1. suspend or cancel future deliveries;
 - 6.3.2. cancel any discount offered to you;
 - 6.3.3. charge you interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998;
 - a. calculated (on a daily basis) from the date of our invoice until payment;
 - b. before and after any judgment (unless a court orders otherwise);
- 6.4 If you have an Approved Credit Account we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may take any of these actions at any time and without notice.
- 6.5 You do not have the right to set off any money you may claim from us against anything you may owe us.
- 6.6 While you owe money to us, we have a right to keep any property we may hold of yours until you have paid us in full (*a lien*).
- 6.7 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs, legal costs on a full indemnity basis and the costs of instructing a debt collection agency to recover a debt due to us (if any)) following any breach by you of any of your obligations under these terms.

7. TITLE

- 7.1 Until you pay us in full the price of the Goods and any interest accrued thereon:
- 7.1.1. such Goods supplied by us remain our property;
 - 7.1.2. you must store them so that they are clearly identifiable as our property;
 - 7.1.3. you must insure them (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 those Goods and sell them in the ordinary course of your business:
 - a. but not if:
 - i. we revoke that right (by informing you in writing); or
 - ii. you become insolvent; and
 - b. provided that:
 - i. you notify any third parties that you do not have good title to such Goods and that until you have paid for them in full they remain our property;
 - ii. you ensure that such third parties have agreed to grant us access to their premises to remove the Goods in the event of a failure by you to pay for the Goods; and
 - iii. you provide us with a written copy of such agreement
- 7.2 You must inform us (in writing) immediately if you have any reason to believe you may become insolvent.
- 7.3 If your right to use and sell the Goods ends, you must allow us to remove the Goods and where the Goods have been delivered to any third party, you shall procure that such third parties will grant us the necessary access to remove the Goods from their premises.
- 7.4 We have your permission to enter any premises where the Goods may be stored:
- 7.4.1. at any time, to inspect them; and
 - 7.4.2. after your right to use and sell them has ended, to remove them, using reasonable force if necessary.

7.5 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.

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

8. INTELLECTUAL PROPERTY

- 8.1 All intellectual property in the Goods and any related designs, drawings, models and any other documentation belongs to us absolutely.
- 8.2 You must ensure that your use of the Goods does not in anyway infringe any intellectual property owned by us, or otherwise.

- 8.3 You must notify us if at any time you become aware that any party is using the Goods in such a manner that may infringe any of our intellectual property rights.

9. WARRANTIES AND LIMITATION OF LIABILITY

- 9.1 We warrant that the Goods:
- 9.1.1. materially comply with their description on our quotation form, or if no quotation provided, as per our product details displayed on our website (Subject to any typographical errors); and
 - 9.1.2. are free from material defect at the time of Delivery (as long as you comply with clause 10.2).
- 9.2 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.
- 9.3 We are not liable for any other loss or damage arising from the contract or the supply of Goods or their use, even if we are negligent, including (as examples only);
- 9.3.1. direct financial loss, loss of profits or loss of use; and
 - 9.3.2. indirect or consequential loss
- 9.4 Our total liability to you (from one single cause) for damage to property caused by our negligence is limited to £1,000,000.00.
- 9.5 For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the Goods.
- 9.6 Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.
- 9.7 Nothing in these terms affects or limits our liability for fraudulent misrepresentation.

10. LIFETIME GUARANTEE

- 10.1 All Goods supplied (unless stated) are covered by a lifetime guarantee. This guarantee is provided to you only and not any successors in ownership of the Goods, unless otherwise stated.
- 10.2 If at anytime after Delivery you believe the Goods have become defective in anyway, you must:
- 10.2.1. inform us (in writing), with full details, as soon as possible,
 - 10.2.2. allow us to investigate, and
 - 10.2.3. return the defective goods to us for repair (at your expense), replacement or for investigation.
- 10.3 If the Goods are found to be defective (following our investigations), and you have complied with those conditions (in Clause 10.2) in full, we will (at our option) repair the Goods or replace the Goods.
- 10.4 The Company shall not be liable to repair or replace the Goods under this Clause 10 where the defect arises from fair wear and tear, negligence by you, failure to follow our instructions or misuse or alteration of the Goods without our prior consent and instruction.

11. SPECIFICATION

- 11.1 If we prepare any Goods in accordance with your specifications or instructions you must ensure that:
- 11.1.1. the specifications or instructions are accurate;
 - 11.1.2. Goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and
 - 11.1.3. your specifications or instructions will not result in the infringement of any intellectual property rights of a third party, or in the breach of any applicable law or regulation.
- 11.2 We reserve the right;
- 11.2.1. to make any changes in the specifications of our Goods that are necessary to ensure they conform to any applicable safety or statutory requirements; and
 - 11.2.2. to make without notice any minor modifications in our specifications we think necessary or desirable.

12. TERMINATION

- 12.1 You may not cancel any order unless we agree in writing (and clause 12.2 shall then apply).
- 12.2 If an 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, as well as a stocking fee of 20% of the value of Goods.
- 12.3 We may suspend or cancel any order and/or terminate this agreement, by written notice if:
- 12.3.1. you fail to pay us any money when due (under the order or otherwise);
 - 12.3.2. we have reasonable grounds to believe that you may become insolvent;
 - 12.3.3. you fail to honour your obligations under these terms.

13. WAIVER AND VARIATIONS

- 13.1 No failure or delay by us in enforcing any of our rights shall constitute a waiver of any of our rights. No waiver shall be effective unless in writing signed by us.
- 13.2 No variation of these terms is binding unless:
- 13.2.1. made (or recorded) in writing;
 - 13.2.2. signed on behalf of each party; and
 - 13.2.3. expressly stating an intention to vary these terms.
- 13.3 All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any terms you may have to the extent that they are inconsistent with our terms.

14. FORCE MAJEURE

- 14.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.
- 14.2 Examples of those circumstances include act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

15. GENERAL

- 15.1 All contracts governed by these terms and conditions are subject to English law and the exclusive jurisdiction of the courts of England and Wales, but the parties agree to the enforcement of an English judgment in any jurisdiction.
- 15.2 If any of these terms are unenforceable as drafted:
- 15.2.1. it will not affect the enforceability of any other of these terms; and
 - 15.2.2. if it would be enforceable if amended, it will be treated as so amended.
- 15.3 We may treat you as insolvent if:
- 15.3.1. you are unable to pay your debts as they fall due; or
 - 15.3.2. you (or any item of your property) becomes the subject of:
 - a. any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
 - b. any application or proposal for any formal insolvency procedure; or
 - c. any application, procedure or proposal overseas with similar effect or purpose.
- 15.4 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.
- 15.5 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 post or by fax) the other's registered office or principal place of business. All such notices must be signed.
- 15.6 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.
- 15.7 The only statements upon which you may rely in making the contract with us are those made in writing by someone who is (or whom you reasonably believe to be) our authorised representative and either:
- 15.7.1. contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
 - 15.7.2. which expressly state that you may rely on them when entering into the contract.
- 15.8 Please note that we may transfer personal information about you to those we may appoint to administer your account or recover amounts owing. That may include, for example, passing information about you to our insurers, debt recovery agents and solicitors, if you fail to pay us.
- 15.9 You may not assign your rights.