

# COMDRONIC LIMITED CONDITIONS OF SALE

## 1. Definitions

In these conditions:

"Buyer" is the buyer for the Goods referred to in the Seller's Order Confirmation (of if there is none the Seller's Delivery Note).

"Conditions" means these terms and conditions of sale for the Goods.

"Contract" means the contract for the supply of the Goods consisting of the Buyer's purchase order, the Seller's Order Confirmation (of if there is none the Seller's Delivery Note), the Specification if applicable and the Conditions.

"Goods" means the products (and services) described by the seller.

"Price" means the price for the Goods set out on the Seller's quotation and/or subsequent order Confirmation.

"Seller" is the seller or the Goods referred to in the Seller's Order Confirmation or if there is none the Seller's Delivery Note.

"Specification" if relevant means the detailed requirements for the Goods in an assembled form which is attached to the Seller's Order Confirmation.

## 2. Contract Terms

2.1 The Contract is made by the Seller subject to these Conditions, which supersede all earlier sets of conditions issued by the Seller. Any terms and conditions proffered by the Buyer as part of the Buyer's purchase order or otherwise are excluded and do not form a part of the Contract.

2.2 Any order of the Buyer whether made orally or in writing or electronically shall be treated as an offer to the Seller only, and any acceptance thereof by the Seller, whether made orally or in writing or electronically or by conduct, shall be subject to the Conditions to the exclusion of others.

2.3 No communication from the Seller, its servants or agents, whether oral or in writing or electronically shall be of any contractual effect or be relied on as a representation, condition or warranty, and no variation of the Conditions or any part of the Contract shall be effective save as hereinafter expressly provided for unless given in writing and signed by a Director of the Seller.

## 3. Intellectual Property Rights

3.1 Any and all intellectual property rights including but not limited to copyright, patents, registered or unregistered design rights, or trade marks anywhere in the world in or related to the Goods (and any improvements to the Goods) or the Specification belong to or shall vest in the Seller or its suppliers.

3.2 The Buyer is licensed to use such intellectual property rights only in connection with its acquisition and use or onward distribution of the Goods and for no other purpose. The Buyer and any subsequent purchase of the Goods is prohibited as a condition of the Contract from copying, manufacturing, reverse engineering or otherwise replicating all or any part of the Goods or the Specification.

## 4. Payment and Interest

4.1 The Buyer shall pay to the Seller the Price on delivery of an invoice for the Goods or end of month plus 30 days thereafter for approved credit account customers.

4.2 The time for payment of the Price is of the essence of the Contract.

4.3 The Seller shall be entitled to charge interest from day to day on any overdue payments at the rate of 2% per month calculated on a daily basis from the first day of the calendar month following the expiry of one month from the date of the delivery of the invoice until payment.

4.4 Delivery shall be of part or of the whole of the Goods at the discretion of the Seller, and the Buyer shall be obliged to take instalment deliveries of the Goods unless otherwise expressly agreed in writing in accordance with clause 2.3 hereof. The Seller shall be entitled to invoice each instalment of the goods separately and the Buyer shall make payment of each instalment invoice in accordance with the terms as to payment herein.

5. VAT- All prices quoted or accepted are exclusive of Value Added Tax and the Price shall be such price plus VAT at the prevailing rate.

## 6. Termination

6.1 The Seller shall be entitled forthwith (without prejudice to any of its other rights and remedies against the Buyer and without liability for breach of contract) by notice in writing to the Buyer to cancel the Contract and/or any other contract between the Seller and the Buyer or to suspend delivery in the following events:

6.1.1 Should any sums owing by the Buyer to the Seller be overdue, whether under the Contract and/or any other contract;

6.1.2 Should the Buyer be in breach of any provisions of the Contract and/or any other contract with the Seller or if any distress or execution shall be levied upon the Buyer, its property or assets or if it shall become insolvent or have a receiver or administrator or an equivalent officer appointed in respect of its assets or business.

6.2 Any such contract then subsisting shall be deemed to have been cancelled.

## 7. Delivery

7.1 Delivery dates for the Goods provided by the Seller whether on the Seller's Order Confirmation or the Seller's Delivery Note or otherwise are estimates only. Although every reasonable endeavour will be made by the Seller to meet the Buyer's requirements for delivery of the Goods the Seller shall not be liable for any loss or damage whether direct or indirect or consequential caused by any delay in delivery.

7.2 All deliveries arranged by the Seller shall be arranged as agent for the Buyer and on condition that the Seller is under no obligation to contract under anything but the carrier's normal conditions.

7.3 The Buyer must ensure that proper arrangements are made the receipt of the Goods on delivery and will indemnify the Seller against all losses arising from failure to comply with this obligation.

7.4 The Buyer or purchasers from the Buyer shall be responsible for installation and use of the Goods on site and for following any instructions provided by the Seller with reference to such installation or use.

## 8. Property and Risk

8.1 The risk in the Goods shall pass to the Buyer on delivery notwithstanding that the property in the Goods may not have passed to it.

8.2 The property in the Goods shall not pass to the Buyer until the Price has been paid in full.

8.3 The Buyer shall at its own expense take all necessary steps to protect the Seller's title to the Goods against third parties.

8.4 Until the Price has been paid in full the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall to the extent possible keep the Goods separate from or at least separately identifiable from the any other Goods. If the Buyer resells such unpaid Goods in the ordinary course of its business it shall hold the proceeds of sale as trustee on account for the Seller.

8.5 In case of default in payment by the Buyer or upon termination of the Contract by the Seller under clause 7 of the Conditions, the Seller shall be entitled to retake possession of and permanently retain any unpaid Goods and to revoke all liability of the Seller to the Buyer under this Contract. The Buyer shall give the Seller such facilities as are reasonably required by the Seller to enable the Seller to retake possession of the said Goods including, without limited, an irrevocable licence to enter any premises where the Goods are located.

## 9. Warranty and Liability for Defects

9.1 Subject to the conditions set out below the Seller warrants that the Goods shall at the time of delivery to the Buyer comply with the Specification.

9.2 Subject to the terms and conditions set out below, the Seller agrees to repair or replace the Product at its own cost and discretion, and any accessory supplied with it, purchased by You from the Seller, in circumstances where the Product does not perform in accordance with the Seller's specifications during the Standard Warranty

period of 12 months, commencing on the date of delivery (or deemed delivery) of the Product. Servicing, repairs and re-calibrations outside the standard warranty period are not covered by this warranty.

- 9.3 The Seller's liability for any breach of the above warranty shall be limited, at the Seller's option to:
- 9.3.1 replacement of the Goods by the Seller provided that the Buyer notifies the Seller in writing of any complaint concerning the Good delivered within 3 days of receipt of them by the Buyer and prior to the Goods being used failing which the Seller shall be under no further or other liability to the Buyer for any such breach.
- 9.4 EXCEPT AS EXPRESSLY PROVIDED IN THE CONTRACT THE SELLER MAKES NO WARRANTY OR REPRESENTATION EXPRESS OR IMPLIED RELATING TO THE GOODS OR THE SPECIFICATION AND ALL OTHER REPRESENTATIONS, WARRANTIES, TERMS OR CONDITIONS WHETHER EXPRESS, IMPLIED STATUTORY OR OTHERWISE RELATED TO THE FITNESS FOR PURPOSE, QUALITY, OR COMPLIANCE WITH DESCRIPTION OF THE GOODS OR THE SPECIFICATION ARE HEREBY EXCLUDED TO THE EXTENT PERMITTED BY LAW.
- 9.5 The Buyer relies on its own skill and judgement as to the sufficiency, capacity and performance of the Goods and as to the suitability of the goods for any purposes for which they are required by the Buyer. The Seller shall not be responsible for any failure of the Goods attributable to the failure of the Buyer or any purchaser from the Buyer to comply with any 'installation instructions' or 'instructions for use' provided by the Seller.
- 9.6 If the Seller has assembled or otherwise dealt with or processed all of any part of the Goods in accordance with the requirements of the Buyer, these requirements shall be as expressed and given effect to in the Specification. This relies upon the adequacy, accuracy and completeness of the information provided by the Buyer as to its requirements whether on the Buyer's purchase order or otherwise.
- 9.7 The Seller shall be under no liability under or with reference to the Contract or the Goods or the Specification for any defect in the Goods (or the way in which they are assembled, dealt with or processed) or in the Specification which is attributable to any defect, inaccuracy, inadequacy or incompleteness of any drawing, design, specification or other material or information supplied by the Buyer.
- 9.8 The Buyer shall before using the Goods, and before parting with possession of them, test and examine them to satisfy itself that the Goods are of contractual quality and description and are suitable for the purpose for which they are intended to be used.
10. Limit of Liability
- 10.1 THE LIABILITY OF THE SELLER UNDER OR WITH REFERENCE TO THE CONTRACT, THE GOODS AND/OR THE SPECIFICATION WHETHER IN CONTRACT, TORT, FOR BREACH OF STATUTORY DUTY OR OTHERWISE, WHETHER ARISING DIRECTLY OR INDIRECTLY, SHALL BE LIMITED TO THE AMOUNT OF THE PRICE PAYABLE UNDER THE CONTRACT.
- 10.2 THE SELLER SHALL IN ANY EVENT NOT BE LIABLE UNDER OR WITH REFERENCE TO THE CONTRACT, THE GOODS OR THE SPECIFICATION WHETHER IN CONTRACT, TORT, FOR BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY CONSEQUENTIAL, INDIRECT OR PUNITIVE LOSS OR DAMAGE, LOSS OF PROFIT, REVENUE OR ANTICIPATED LOSS OF PROFIT, OR LOSS OF BUSINESS, DATA OR GOODWILL OF OR RELATED TO THE BUYER OR ANY THIRD PARTY EVEN IF THE SELLER HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE BUYER IS ADVISED TO INSURE AGAINST ALL POTENTIAL RISKS.
- 10.3 THE BUYER ACKNOWLEDGES THAT SUCH LIMITS OF LIABILITY ARE REASONABLE IN THE CONTEXT OF THE CONTRACT.
11. Force Majeure
- 11.1 The Seller shall not be liable for any failure to carry out its obligations under the Contract if and to the extent that such failure is due to force majeure which shall mean an event beyond the control of the Seller including but not limited to an act of war, an outbreak of hostilities (whether or not involving the United Kingdom and whether war is declared or not), terrorism, national emergency, strikes, lock-outs, trade disputes or other labour difficulties, breakdown, delays in transport, accidents, explosions, fire, flood, drought, tempest, abnormal weather conditions, delay in delivery of raw materials or components, or failure to obtain any necessary licenses, consents or authorities for the exportation or importation of the Goods.
- 11.2 The Seller shall be entitled to terminate the Contract without liability for breach of contract in the event that such a force majeure event continues for 30 days or longer.
12. Confidentiality
- 12.1 The parties to the Contract will keep confidential the Contract and any confidential information relating to the other party, their business, the Goods, other products, the Specification, clients, projects or otherwise which is marked as confidential or is clearly intended to be confidential and will provide the same degree of protection for this as it would for its own confidential information and will not use copy or disclose the same to any third party except to the extent that this is expressly permitted under this agreement or is necessary for its proper operation.
- 12.2 This obligation of confidentiality will not apply to any such confidential information which:
- (a) is already in the public domain;
  - (b) becomes known from a third party without breach of this or any other obligation of confidentiality;
  - (c) is required to be disclosed by a court of law or any other competent tribunal, government or other authority or regulatory body.
13. Status of the Parties- The parties to the Contract are to be considered as independent contractors and nothing shall be deemed to create a relationship of partnership or agency between them.
14. Entire Agreement
- The Contract represents the entire agreement between the parties relating to its subject matter and supersedes any and all prior promises, representations, agreements, statements and understandings whatsoever which existed or may have existed between the parties other than those expressly incorporated in the Contract. This clause shall not exclude liability for fraudulent misrepresentation.
15. Waiver- Any delay or failure by any party in exercising any right or remedy arising under the Contract shall not constitute a waiver of such right or remedy.
16. Severability- If any provisions of the Contract should be declared invalid by a court of law or other competent tribunal or governmental body then the remainder of the Contract shall continue in full force and effect provided that it is capable of so doing.
17. Un Convention- The parties hereto specifically exclude the United Nations Convention on Contracts for the International Sale of Goods from the Contract and any transaction that may be implemented in connection with this Agreement.
18. Third Party Rights- Save where expressly stated, the Contract is not intended to nor shall it create any rights, entitlements, claims or benefits enforceable by any person that is not a party to it. Accordingly, save as aforesaid, no person shall derive any benefit or have any right, entitlement or claim in relation to this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.
19. Headings- The headings in the Conditions are included for reference purposes only and shall not be taken into account in their interpretation.
20. Notices- All communications and notices by and to the Seller or the Buyer shall be made or given by sending the same by hand, ordinary first class post, facsimile transmission or electronic transmission in the case of the Buyer to the address on the Seller's Order Confirmation (or if none the Seller's Delivery Note) or the Buyer's last known address and in the case of the Seller to 48 Larchcroft Road, Ipswich, IP1 6AN and if so sent by post shall be deemed to have been made or given on the day after the date when the same was posted and in the case of other notices will be deemed to have been given on delivery.
21. Governing Law and Disputes- The Contract shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts