

Terms & Conditions of Sale - njo Technology Ltd

All orders are accepted by njo Technology Ltd subject to these Terms & Conditions of Sale.

1. DEFINITIONS

In these Conditions, "the Company" shall mean NJO Technology Ltd and "the Customer" shall mean any person, firm, company or other organisation placing an order with the Company.

"Goods" means the products or parts of them, which the Company is to supply in accordance with these conditions.

"Contract" means the contract for the purchase and sale of the Goods.

"Conditions" means the conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer.

The titles of these conditions are not part of them and are for convenience of reference only.

2. APPLICATION

2.1 These conditions shall be incorporated in all contracts for the sale of Goods by the Company and any provision of the Customer's order which is inconsistent with them shall be of no effect.

2.2 These Conditions cannot be varied without the prior written consent of the Company stating the variation and referring expressly to the condition which is to be varied.

3. QUOTATIONS

3.1 All quotations remain valid for 30 days, unless otherwise stipulated and denote no obligation until the Company has accepted the Customer's order.

3.2 The Company will, at its sole discretion, accept telephone orders conditional upon the Customer providing an order number and holding an up-to-date account with the Company.

4. PRICE OF THE GOODS

4.1 The price of the Goods shall be that specified in the Company's invoice. All prices are strictly net, exclusive of delivery & VAT charges, unless otherwise stated. The Company shall be entitled to vary any such prices to reflect changes in the cost of materials, labour or the Goods and exchange rate fluctuations occurring between the date of the Contract and the delivery of the Goods.

5. PAYMENT TERMS

5.1 The Customer shall pay the price of the Goods (less any discount to which the Customer is entitled, but without any other deduction, retention or set-off) within 30 days of the date of invoice notwithstanding that title to the Goods has not passed to the Customer.

5.2 The time of payment of the price shall be of the essence of the Contract.

5.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

- cancel the Contract or suspend any further deliveries to the Customer; and
- charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 3% per month above base rate of the HSBC plc on a day-to-day basis.

5.4 All payments due to the Company under the Contract shall become due upon termination thereof despite any other provision.

5.5 For non account customers a pro forma invoice will be raised for payment prior to shipment of the Goods.

6. DELIVERY

6.1 Unless otherwise agreed in writing the delivery of the Goods shall be made by the Company to the Customer's main address.

6.2 Any times quoted for delivery are estimates only and the Company shall not be liable for failure to deliver within the time quoted. Delivery dates are quoted with effect from the Company's acceptance of the Customer's Purchase Order.

6.3 Unless the Customer shall have notified the Company in writing within 14 days of receipt of the invoice that the goods have not been delivered, then delivery shall be deemed to have taken place.

6.4 No claims for shortage of Goods may be made by the Customer unless the Company shall receive written notification thereof within two days of delivery.

6.5 If the Company shall not receive sufficient forwarding instructions within 14 days after notification that the Goods are ready for despatch, the Customer shall either take delivery or arrange for storage. Otherwise the Company shall be entitled to arrange storage on the Customer's behalf and at the Customer's risk, either at the Company's works (making a charge of 1½% of the invoice value of the Goods per month) or elsewhere. The Company shall be entitled to payment as if the Goods had been duly delivered. All charges for storage, insurance or demurrage shall be payable by the Customer.

7. WARRANTIES

7.1 The Company warrants that, subject to the other provisions of these Conditions:

- the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1994 at delivery; and
- the Goods will conform to any agreed specification therefore at the date of delivery.

7.2 The above warranty is given by the Company subject to the following conditions:

- the Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions relating to storage, handling or otherwise (whether verbal or in writing), faulty installation, misuse or alteration or repair of the Goods without the Company's approval or failure to comply with the COSHH Regulations 1999 requirements;
- the Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- the above warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.

8. TITLE & RISK

8.1 Goods supplied by the Company shall remain the property of the Company until full payment in cleared funds has been received by the Company for those Goods and for all other Goods delivered or services supplied by the Company to the Customer in respect of which payment is outstanding.

8.2 Until title to the Goods passes to the Customer:

- The Customer shall hold those Goods as the Company's bailee;
- The Customer shall protect, store, insure and identify the Goods by reasonable means so that they shall be recognised as the property of the Company.

8.3 Risk in all Goods supplied to the Customer will pass to the Customer on delivery.

9. SPECIFICATION & TECHNICAL ADVICE

9.1 Any technical advice or service given by the Company shall not amount to a warranty as to fitness for any other purpose other than in accordance with the manufacturer's specification.

9.2 All descriptions and illustrations contained in the Company's brochures, price list and advertisements or otherwise communicated to the Customer are intended merely to represent a general idea of the items described therein and nothing contained in any of them shall form part of any agreement of which these terms & conditions of sale form a part.

10. LIABILITY OF THE COMPANY

10.1 The Company shall not be liable either in Contract or in tort for any loss, injury or damage of whatsoever cause arising directly or indirectly from any defect in the Goods (whether latent or apparent) or as a result of the use of the Goods (save and except any liability for the death of or injury to any person

resulting directly from the negligence of the Company) and the demands made upon the Company by reason of any such loss or injury or damage.

10.2 The Company shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs expenses or other claims for consequential compensation whatsoever and howsoever caused which arise out of or in connection with the Contract.

10.3 The Customer shall determine the suitability of the Goods for their intended use and shall not rely upon any representations made by or on behalf of the Company.

11. FORCE MAJEURE

11.1 The Company shall not be under any liability of whatsoever kind for non-performance in whole or part of its obligations under the contract due to causes beyond the control of either The Company or the Company's suppliers including, but not limited to acts of God, acts of Customer or a third party, war, sabotage, insurrection, government regulations, embargoes, strikes, labour disputes, illness, flood, fire etc.

12. SAFETY

12.1 The Customer shall ensure that the Goods are properly used and without prejudice to the foregoing, that they are selected, installed, commissioned and maintained in accordance with all applicable safety and other regulations. The Customer shall ensure that all Goods incorporated within or otherwise joined to other components or products are so incorporated or joined as to ensure that the Goods and the final product comply in all respects with all applicable safety and other regulations.

12.2 The Customer shall take such steps as are necessary or desirable to ensure that all information and instructions relevant to the Goods and their use are provided to any person using the Goods or likely to be affected by them. Without prejudice to the foregoing, the Customer shall ensure that all packaging and instruction supplied to the Customer remain with the Goods whenever they are the subject of any future supply.

12.3 The Customer shall not supply any Goods to any person unless the safety of the Goods at the time of such supply is such as persons generally are entitled to expect.

12.4 The Customer shall on demand fully and effectively indemnify the Company against any claims, demands and proceedings made or brought against the Company by any third party or parties in relation to the Goods or their supply together with all expenses, costs (including the legal costs on a full indemnity basis), damages, losses and liabilities incurred by the Company in connection with any such claims, demands or proceedings.

13. CLAIMS NOTIFICATION

13.1 Any claims that the goods have been delivered damaged or not in the correct quantity or do not comply with their description shall be notified in writing by the Customer to the Company within 3 days of their delivery.

13.2 The Company shall be afforded reasonable opportunity and facilities to investigate any claims made under this condition and the Customer shall, if so required in writing by the Company, promptly return any goods which are the subject of any claim and any packaging securely packed and carriage paid to the Company, for examination.

13.3 Goods must not be returned to the Company under any other circumstances.

14. CANCELLATION & RETURNED GOODS

14.1 The Company shall be entitled to levy a cancellation charge when any order, or part thereof, is cancelled more than 24 hours after receipt of order. This charge will be assessed by the Company at the time of cancellation, and the Company is entitled to recovery of all losses & expenses incurred.

14.2 No Goods will be accepted back for credit or replacement unless a Returns Number has been issued by the Company.

14.3 All returns must be sent back at the Customer's expense, carriage paid, together with a Returns/Debit Note quoting the original invoice number for the Goods and advising the reason for the return.

14.4 Faulty Goods must be returned to the Company for evaluation prior to replacement. Immediate exchange is not available.

14.5 Products returned for repair that are incomplete, nor our manufacture, or damaged due to mis-use will be returned to the Customer as received and at the Customer's expense.

15. ASSIGNMENT

15.1 The Company reserves the right to assign or sub-contract the performance of its obligations under the Contract or any part thereof or to assign the benefits of its rights thereunder.

15.2 The Contract may not be assigned, sub-let or charged in whole or in part by the Customer without the written consent of the Company.

16. TERMINATION

16.1 The Company shall be entitled to determine the Contract or the unfulfilled part thereof by written notice to the Customer in any of the following events:

- If the Customer commits any breach of the terms or conditions of the Contract.
- If the Customer ceases to carry on business or pay his debts as and when they fall due or threatens to do so.
- If the Customer shall become bankrupt or have receiving order or administration order made against him or shall make any composition or arrangement with or conveyance or assignment for the benefit of his creditors or shall purport so to do if any proposal shall be made for a voluntary arrangement in relation to the Customer or if the Customer shall have any application made against him under the Insolvency Act 1986 or any Statutory re-enactment or replacement thereof of any other insolvency legislation in whatever jurisdiction or (being a company) if any Resolution be passed or any Order of the court be made that the Customer be wound up or a Receiver and/or Manager be appointed by any creditor or any at shall be done which would cause any of the foregoing to be done.

16.2 Any termination of the Contract shall be without prejudice to the Company's rights accrued up to the date of termination and the Customer shall forthwith pay to the Company all payments due to it up to such a date.

17. LAW AND JURISDICTION

17.1 These Terms & Conditions of Sale shall be governed by English Law and the Customer hereby submits to the jurisdiction of the English Courts.

18. RIGHTS OF THIRD PARTIES

18.1 For the avoidance of doubt, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to any term or condition hereof and nothing contained herein shall confer on any third party any benefit or the right to enforce any term or condition hereof.

19. GENERAL

19.1 Any notice to be served under the provisions of the Contract shall only be deemed to have been effectively served if it is personally delivered or sent pre-paid by first class recorded delivery or special delivery post.

19.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

19.3 If any provision of these Conditions is held by any competent authority to be illegal, invalid, unenforceable or unreasonable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.