

CONTRACT TERMS AND CONDITIONS

1. DEFINITIONS

In these Conditions:-

- 1.1 "The Company" means Kaba Limited whose Registered Office is situated at Lower Moor Way, Tiverton Business Park, Tiverton, Devon. EX16 6SS.
- 1.2 "The Buyer" means the person firm or company who buys or agrees to buy the Goods from the Company.
- 1.3 "The Goods" means the articles which the Buyer agrees to buy from the Company.
- 1.4 "A Credit Customer" means a Buyer who has been notified in writing by the Company that credit terms and a credit limit are available to it, and in respect of whom the Company has not exercised its discretionary right to notify the Buyer of the withdrawal of such terms.
- 1.5 "The Warranty Period" means in respect of any Goods a period of twelve months from the date of the issue of the invoice for them (or such other period as may be expressly agreed in writing between the parties).

2. APPLICATION OF CONDITIONS

- 2.1 These Conditions shall apply to all contracts for the sale of Goods by the Company to the Buyer to the exclusion of all other terms and Conditions including any which the Buyer may purport to apply under any purchase order confirmation or order or similar document.
- 2.2 Acknowledgement by the Company of any invitation (in whatever form) to offer Goods for sale shall be an offer to sell subject to these Conditions (and no others) only capable of acceptance by the Buyer upon these Conditions and by means of giving to the Company a signed duplicate of the acknowledgement.
- 2.3 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by a duly authorised officer of the Company.

3. PRICES

- 3.1 The Price of the Goods shall (subject as below) be the Price stipulated in the Company's price list current at the date of delivery of the Goods, or, if a specific quotation has been given for the Goods, the price then quoted provided that the Buyer has accepted that quotation within 30 days.
- 3.2 The Company may, by giving notice to the Buyer at any time up to 7 days before delivery, increase the Price to reflect any increase of the contract of sale which are beyond the reasonable control of the Company (including, without limitation, adverse exchange rate fluctuation by 2% or more, taxes, duties, and the cost of labour, materials and other manufacturing costs PROVIDED that if the Price as so varied is reasonably regarded by the Buyer as too high in relation to the Price originally agreed then the Buyer may cancel the contract by notice in writing to the Company within 3 days of receiving the notice of change of Price.
- 3.3 The Price shall be exclusive of VAT, which shall be due at the rate ruling on the date of the VAT invoice.
- 3.4 The Price shall be a minimum of £30 (with the exception of cut keys).
- 3.5 The Price shall exclude all costs of packing, carriage, insurance in transit, taxes, duties and tariffs, and unless otherwise agreed the Buyer shall be responsible for arranging carriage and insurance at its own expense, so that any carrier shall be deemed to be acting on behalf of the Buyer.
- 3.6 The Buyer shall not be entitled to make any deduction from the Price in respect of any alleged rights to set-off or counterclaim unless both the validity and the amounts thereof have been expressly accepted by the Company in writing.

4. PAYMENT TERMS

- 4.1 Payment by a Credit Customer shall be due on the last day of the month following the date of the invoice for the Goods.
- 4.2 Payment by any other Buyer shall be due on the earlier of delivery of the Goods or the receipt by the Buyer of a pro forma invoice for the Goods.
- 4.3 Payment shall be in pounds sterling unless otherwise expressly agreed.
- 4.4 Interest on overdue invoices (or any part(s) thereof) shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 5% above National Westminster Bank plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgement.
- 4.5 In the event that any payment is more than 30 days overdue the Company may at its discretion refuse to supply any further Goods to the Buyer under any contract between them.
- 4.6 Credit Customers will be awarded a credit limit within which they are entitled to Trade, but the Company reserves the right to withhold supply at any time should the total value of goods both outstanding and in process, be above the agreed credit limit, and not to supply until the account value has been reduced by a payment which is sufficient to bring the account to below its agreed credit limit.
- 4.7 If Goods are ordered and subsequently purchased or manufactured by the Company on behalf of the Buyer to be installed as part of a project, the Company shall be entitled to render an invoice for those goods on the original contract delivery date referred to in the Company's order acknowledgement notwithstanding any delays that may occur in completing the installation. The Goods may be held by the Company or delivered on site.
- 4.8 The Company reserves the right to issue a payment plan to the Buyer, save as may be otherwise agreed by the parties in writing.
- 4.9 The Buyer shall not be entitled to cancel or modify any order submitted by it or to return any goods by the Company without the Company's written consent.
- 4.10 Provided that the goods have not been purchased or manufactured by the Company as provided under Condition 4.7 herein, if the Company does agree to any cancellation or return, the Buyer shall be liable to pay to the Company an amount as specified by the Company (minimum of 25% of invoice value of goods or £25

whichever is the greater) together with all costs of handling, carriage, insurance and packing in relation to delivery of the goods and arranging for the return of the goods to the Company. Any credit amount due to the Buyer is not refundable but will be held by the Company to be set against future invoicing.

5. DELIVERY AND RISK

- 5.1 Delivery of the Goods shall be deemed to be effected either when they are collected from the Company by the Buyer, or when they are handed by the Company to any carrier.
- 5.2 Any carrier shall be deemed to be acting on behalf of the Buyer.
- 5.3 All deliveries are chargeable to the Buyer based on the delivery charge policy, which is available from the Company, unless a separate written agreement confirms free delivery for a transaction or project.
- 5.4 Risk in respect of all Goods shall pass on delivery, and the Company shall accept no liability for any direct or consequential loss or damage after delivery, whether in transit or otherwise.
- 5.5 Any claim for shortages must be notified by the Buyer to the Company in writing within three working days of actual receipt of the Goods by the Buyer.
- 5.6 The Seller shall not be liable for any loss or damage whatever due to failure to deliver the Goods (or any of them) promptly or at all, and any date indicated for delivery shall be regarded only as the Company's best estimate and shall not be contractually binding.

6. RETURNS

- 6.1 No Goods delivered to the Buyer which are in accordance with the contract will be accepted for return without an official Returns Note number authorised by the Company.
- 6.2 If the Company agrees to accept any such Goods for return, and if the goods are able to be restocked and resold, the Buyer shall be liable to pay a minimum handling charge being the greater of £20 or 20% of the invoice price.
- 6.3 Such Goods must be returned by the Buyer to the Company carriage paid and in suitable packaging.
- 6.4 Goods returned without the prior issuing of an official authorised Return Note number and approval of the Company may at the Company's absolute discretion be returned to the Buyer or stored at the Buyer's cost, without prejudice to any rights or remedies the Company may have.
- 6.5 The Buyer shall be deemed to have accepted the Goods by the close of the second working day after the date of delivery and shall thereafter not be entitled to reject Goods.

7. WARRANTIES

- 7.1 The Company warrants that the Goods shall be manufactured and supplied in accordance with any description contained in the Company's specifications (subject to Condition 7.8 below) and warrants them against defects in design materials and workmanship which become apparent and are notified in writing by the Buyer to the Company within the Warranty Period.
- 7.2 In relation to the supply of items of hardware and software the Warranty Period will be
 - 7.2.1 12 months for hardware; and
 - 7.2.2 90 days for software.
- The Buyer will have the option of extending such periods by entering into an annual maintenance contract with the Company.
- 7.3 The Company's obligation under this warranty is limited to repairing or (at its option) replacing any Goods (or parts thereof) which are delivered with or develop such defects under normal and proper use.
- 7.4 Following notification of any defect the Buyer shall allow the Company all necessary access and other reasonable facilities and all information, particulars and assistance required to enable the Company to ascertain or certify the nature and cause of the defect and to carry out its warranty obligations.
- 7.5 The above warranty shall not apply to any defect caused (in whole or in part) by any unauthorised alteration or addition to the Goods, or by use or storage of the Goods in a manner contrary to any written instructions issued by the Company, or for purposes for which the Goods were not designed, or by faulty installation maintenance or repair whether by the Buyer or by any third party. Advice should be sought from the Company with regard to the correct usage, maintenance and repair of the Goods.
- 7.6 When any defective Goods are replaced, the provisions of this Condition shall apply to the replacement goods for the unexpired balance of the original Warranty Period or for one half of the Warranty Period, which shall be the longer.
- 7.7 Except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the Goods and whether implied by statute or common law or otherwise are excluded.
- 7.8 Nothing in this Condition shall prevent the Company from making for a valid reason any changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.
- 7.9 The Company will endeavour to extend to the Buyer the benefit of any guarantee condition or warranty given to the Company by any manufacturer or supplier in respect of the Goods PROVIDED that the Company shall not itself be deemed to accept any liability in respect thereof and shall be indemnified by the Buyer against all costs claims and expenses incurred in connection therewith.

8. PASSING OF PROPERTY

- 8.1 The Goods shall remain the Company's property until the Buyer has paid for them in full, notwithstanding that risk shall pass in accordance with Condition 5.4.
- 8.2 Whilst the Goods remain the Company's property the Buyer shall hold them as bailee and store them separately from any other goods and in such a way that they can be identified as the Company's property, and

shall insure them against loss or damage and if there is any loss or damage hold the proceeds of such insurance as trustee for the Company.

- 8.3 The Buyer's right to possession of the Goods shall cease if they are not fully paid for by the date upon which payment is due, or if the Buyer is declared bankrupt or makes any proposal to its creditors for a composition or other voluntary arrangement, or has a receiver, administrator or liquidator appointed in respect of its business.
- 8.4 On cessation of the Buyer's right to possession of the Goods it shall at its own expense make the Goods available to the Company and allow the Company to repossess them, and for this purpose hereby grants to the Company its agents and employees an irrevocable licence to enter any premises where the Goods are stored in order to repossess them or inspect them at any time.
- 8.5 Nothing in this condition shall prevent the Buyer from selling or disposing of the Goods in the ordinary course of its business.

9. LIABILITY

- 9.1 The Company shall not be liable to the Buyer (whether under the law of contract or tort in any other way whatever) for loss of profit income goodwill or other economic loss, or any loss arising from any claim against the Buyer by any third party, or any consequential or indirect loss damage or expense of any kind however caused or arising.
- 9.2 Nothing herein shall be deemed to exclude or limit the Company's liability in regard to any claim relating to the death of or injury to any person.

10. SPECIFICATION AND DESIGNS

- 10.1 The specification and design of the Goods (including any patents, trade marks, trade names, copyright, design right, registered design or other intellectual property in them) shall not (save with the Company's written consent or insofar as they are within the public domain) be disclosed to any third party. The Buyer shall not take any steps which may infringe, damage or prejudice the Company's intellectual property rights in the Goods, nor condone, support or acquiesce in the activities of any third parties that may do so.
- 10.2 Where any specifications or designs have been supplied by the Buyer for manufacture by or to the order of the Company then the Buyer shall be solely responsible for the accuracy thereof and warrants that the use of those specifications or designs for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party, and the Company shall not be liable for any defects arising therefrom, and the Buyer shall indemnify the Company in relation to any such claims.
- 10.3 Specifications and designs submitted by the Company for quotation purposes shall be deemed to be approximations only.
- 10.4 Proprietary or component fitments not manufactured by the Company are detailed according to the most recent information from their manufacturer in the possession of the Company, and are subject both to variation by the manufacturer and to any conditions imposed thereby.
- 10.5 Nothing herein shall impose any liability on the Company in respect to any defect in the goods arising out of any acts, omissions, negligence or default of the Buyer, its servants or agents, including in particular without prejudice to the generality of the foregoing any failure of the Buyer to supply proper and accurate specifications and designs to the Company of the goods manufactured.

11. CONDITIONS OF INSTALLATION

- 11.1 The Company's Conditions of Installation are subject to these general Terms and Conditions as provided by Condition 2 herein, and as and when applicable, will be annexed hereto.

12. MISCELLANEOUS

- 12.1 The Buyer agrees to observe any information or advice relating to any health and safety aspects of the Goods which may be given to it by the Company and to indemnify the Company against all claims costs and expenses arising in respect of the installation or use of the Goods in a manner which is not safe and without risk to health.
- 12.2 The headings to these Conditions do not affect the interpretation thereof.
- 12.3 Any provision of these Conditions which is or may be void or unenforceable shall to be the extent of such invalidity or unenforceability be deemed severable and shall not affect any other Condition herein.
- 12.4 Neither party shall be liable for any default due to any Act of God, war, strike, lock-out, industrial action, delay or cancellation of any supply by any third party, fire, flood, tempest, drought or other event beyond the reasonable control of either party.
- 12.5 Any notice to be served on either party by the other shall be in writing and shall be sent either:
- 12.5.1 be prepaid recorded delivery first class post in which case it shall be deemed to have been received on the second working day after posting or;
- 12.5.2 by electronic mail to the correct electronic address of the receiving party in which case it shall be deemed to have been received on the first working day after transmission or;
- 12.5.3 by facsimile transfer to the correct number of the receiving party in which case it shall be deemed to have been received on the same day as it was transmitted or the next working day if transmitted on a day other than a working day or after 3.00 pm
- 12.6 The proper law of any contract subject to these Conditions shall be the Law of England and Wales to whose non-exclusive jurisdiction the parties submit.

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