

CONDITIONS OF SALE

1. INTERPRETATION

1.1. In these Conditions:

“Buyer” means the person or organisation who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller

“Goods” means the goods (including any instalment of the goods or any parts for them) and supply of any services or consultancy which the Seller is to supply in accordance with these Conditions

“Seller” means Shop Equipment Limited a company incorporated in Ireland under Companies Registration Office No 14089 whose registered office is at 4052 Kingswood Drive, Citywest Business Campus, Dublin 24

“Conditions” means the standard terms and 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 Buyer and the Seller

“Contract” means the contract for the purchase and sale of the Goods

“Writing” includes facsimile transmission, e-mail and comparable means of communication.

1.2. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. APPLICATION OF CONDITIONS

2.1. These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer. All orders (written or otherwise) for Goods shall be deemed to be an offer by the Buyer to accept the Goods pursuant to these Conditions. All other terms and conditions, which the Buyer may purport to apply under any order, confirmation of order or similar document are hereby expressly excluded. In the event of any conflict between these Conditions and any conditions in any document submitted by the Buyer to the Seller including any contract, arrangement or agreement entered into or to be entered into between the Seller and the Buyer, the provisions of these Conditions shall prevail.

2.2. These Conditions comprise the entire conditions governing the contract between the Seller and the Buyer and supersede any or all representations, warranties, course of dealing or arrangements, whether written or oral, heretofore made or entered into between the Seller and the Buyer relating to the Goods.

3. THE CONTRACT OF SALE

3.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

- 3.2. No variation of these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.
- 3.3. The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.
- 3.4. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 3.5. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

4. ORDERS AND SPECIFICATIONS

- 4.1. The Seller reserves the right to not accept an order submitted by the buyer.
- 4.2. The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 4.3. The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 4.4. If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
- 4.5. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 4.6. No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), cost (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.
- 4.7. The Buyer will if requested by the Seller, take any reasonable steps to satisfy the seller prior to execution of the order as to the Buyers credit worthiness, such as the provision of trade and bankers references or the guarantee of payment from a third party acceptable to the seller. The Seller reserves the right to refuse the order, to delay the execution of the order, to request payment in part or in full prior to the execution of the order, or to cancel any Contract entered into with the Buyer prior to commencement of deliveries to the Buyer if the Sellers normal enquiries indicate that the Buyers credit may not be sufficient to meet the needs of a Contract.

5. THE PRICE

- 5.1. The price of the Goods shall be the Seller's quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 5.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 5.3. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller. The rates are applied in accordance with current legislation.

6. PAYMENT TERMS

- 6.1. Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 6.2. The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 30 days of the date of the Seller's invoice, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 6.3. Unless otherwise agreed in writing, for supply and install orders, payment terms shall be 30% on confirmation of the order, 50% on delivery to site or go live of the system and the remaining 20% within 30 days of the invoice.
- 6.4. If the Buyer fails to make any payment on the due date then, interest shall accrue and be payable on the amount unpaid (both before and after any judgement) at the rate prescribed for statutory interest pursuant to the European Communities (Late Payment in Commercial Transactions) Regulations 2002 until payment is made in full
- 6.5. If the Buyer fails to make any payment on the due date then, without prejudice to Condition [6.4], Condition [10.2.3] and to any other right or remedy available to the Seller, the Seller shall be entitled to: -
- 6.5.1. cancel the contract or suspend any further deliveries or services to the Buyer; and
 - 6.5.2. appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit.

7. DELIVERY OF GOODS

- 7.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.

- 7.2. Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 7.3. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 7.4. If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the agreed price of the Goods.
- 7.5. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 7.5.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 7.5.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

8. RISK AND PROPERTY IN THE GOODS

- 8.1. Risk of damage to or loss of the Goods shall pass to the Buyer:
- 8.1.1. in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
 - 8.1.2. in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 8.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 8.3. Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but shall be entitled to resell or use the Goods in the ordinary course of its business.
- 8.4. Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer where the Goods are stored and repossess the Goods. The Buyer agrees to procure for the seller the consent of any such third party to repossession of the goods on the third party's premises.

- 8.5. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

9. INSTALLATION OF THE GOODS

The following conditions shall apply in addition to the preceding conditions where the order provides for installation of the Goods ("the Works")

- 9.1. It shall be the sole responsibility of the Buyer to ensure that the floors and foundations upon which installation of the Goods is to be carried out are suitably surfaced and are fully prepared for the installation of the Works.
- 9.2. The Buyer shall at his own cost and prior to the date of the commencements of the Works prepare the floors or surfaces on which the Works are to be installed in accordance with the Sellers requirements. In the event that the Buyer fails to comply with his obligations under this clause, on discovery of such an event, the Seller may at its discretion refuse to commence or continue with the works until such time as the failure has been rectified and the terms of the clauses 9.11 and 9.12 hereof will expressly apply. Without prejudice to any other remedy that the Seller may have herein or otherwise, any additional cost or expenses which the Seller may reasonably incur due to such floors or services not being in accordance with its requirements shall be invoiced by the Seller to the buyer and paid by the Buyer in accordance with the terms of clause 6 hereof.
- 9.3. The Seller will not undertake or be responsible for any builder's work or other work which involves alteration to the structure of any building on the Site unless included in the specification or otherwise agreed in writing between The Seller and the Buyer.
- 9.4. The Buyer will at his own expense provide the following services and attendances to The Seller to facilitate the Works:
- 9.4.1. secure waterproof storage accommodation for the Goods and for The Seller's construction plant and equipment immediately adjacent to that part of the Site where the Works will take place.
 - 9.4.2. prior to commencing of the Works, clearance of the Site of all obstruction and other trades or operations to ensure that the Works can be carried out in an efficient manner
 - 9.4.3. lighting of sufficient intensity to enable the Works to be carried out safely and power to enable the Works to be carried out safely and power supplies suitable for operation of construction plant and hand power tools
 - 9.4.4. in addition to off-loading Goods, conveyance of the Goods to that part of the Site where works will take place
 - 9.4.5. The Buyer will ensure a safe working environment at all times in compliance with all approved safety standards and all applicable Health and Safety legislation
- 9.5. The Buyer will ensure that prior to the commencement of the Works the Site is secure and watertight
- 9.6. The Buyer will ensure that prior to the commencement of the Works and until such time as the Works are handed over to the Buyer the Goods are protected from loss or damage and from dust and dirt arising from the activities of the Buyer or any third party on the site.
- 9.7. If for any reason not attributable to The Seller the carrying out of the Works is suspended, delayed or hindered The Seller has every right to claim interim payment or payments on account and render interim invoice or invoices to the Buyer for payment accordingly, irrespective of any schedule of payments previously agreed between the Buyer and The Seller.
- 9.8. Any surplus Goods delivered to the Site shall remain the property of The Seller. The Buyer shall take all reasonable precautions for the safe custody and protection of such surplus Goods until the time of their removal by The Seller.

- 9.9. The Buyer at his own expense shall be responsible (other than for statutory obligations placed solely on The Seller) for obtaining all consent, permissions, easements and licenses for the carrying out of the Works in accordance with the terms hereof and for conforming with all statues and orders, regulations and by-laws made there under applicable at any time to the Works and shall indemnify and keep indemnified The Seller against all actions, proceedings, costs, charges, claims or demands arising out of or in connection with any breach of this clause. The Seller shall (so far as is reasonably able) provide such information with respect to the Works as the Buyer may request in respect of any applications for such consent, permissions, easements or licences as aforesaid.
- 9.10. Where installation work is involved the Seller shall endeavour to complete such work within the time scales agreed with the Buyer, or in the absence of such agreement as soon as reasonably possible. The Seller shall not be liable for any costs, losses, expenses or damages caused by any delay in despatch of the goods or in completion of the installation work connected therewith which are beyond the Sellers control. In the event of any such delay The Seller shall be entitled to such additional time as may be necessary to complete the Contract and where appropriate to allocate its products and services among its Buyers in such manner as it considers fair and reasonable. Under no circumstances shall the Buyer be entitled to cancel the Order in the event of any such delay unless with the specific consent of The Seller on mutually acceptable terms.
- 9.11. If the Buyer requests a suspension of any installation work or if The Seller is delayed by the acts or omissions of the Buyer, the Buyer's servants or agents or any third party not under The Seller's direct control then The Seller shall be entitled to invoice the Buyer with any costs or expenses reasonably incurred by The Seller arising from the suspension or delay and such costs or expenses shall be paid by the Buyer, The Seller shall also be entitled to such additional time as may be necessary to complete the contract.

10. WARRANTIES AND LIABILITY OF THE SELLER

- 10.1. Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 3 months from the date of their initial use or 3 months from delivery, which ever is the first to expire.
- 10.2. The above warranty is given by the Seller subject to the following conditions:
- 10.2.1. the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
 - 10.2.2. the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, vandalism, abnormal working conditions, failure to follow the Seller's instructions (whether given orally or in writing), misuse or alteration or repair of the Goods without the Seller's approval;
 - 10.2.3. the Seller 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;
 - 10.2.4. the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.
- 10.3. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Sale of Goods and Supply of Services Act, 1980), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 10.4. Where the Goods are sold to a consumer (within the meaning of the Sale of Goods and Supply of Services Act, 1980) the statutory rights of the Buyer are not affected by these Conditions.
- 10.5. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable

time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

- 10.6. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 10.7. Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 10.8. The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
- 10.8.1. Act of God, explosion, flood, tempest, fire or accident;
 - 10.8.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 10.8.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 10.8.4. import or export regulations or embargoes;
 - 10.8.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller, the Buyer or of a third party);
 - 10.8.6. difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 10.8.7. power failure or breakdown in machinery.

11. INSOLVENCY OF THE BUYER

- 11.1. This Condition applies if:
- 11.1.1. the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to the protection of the Court, has an examiner appointed to it or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction not involving insolvency); or
 - 11.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
 - 11.1.3. the Buyer ceases, or threatens to cease, to carry on business; or
 - 11.1.4. the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.



11.2. If this Condition applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12. GENERAL

12.1. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.3. If any provision of these Conditions is held by any court, the Competition Authority or any other competent authority to be invalid or unenforceable 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.

12.4. The Contract shall be governed by the laws of the Republic of Ireland, and the Buyer agrees to submit to the non-exclusive jurisdiction of the courts of the Republic of Ireland.

~~~~~

I (the buyer) have read and fully accept the above terms and conditions.

Signed: \_\_\_\_\_

Name (in blocks): \_\_\_\_\_

Company / Store name: \_\_\_\_\_

Date: \_\_\_\_\_