

TERMS AND CONDITIONS OF SALE FOR GOODS

1. DEFINITIONS

- 1.1 “Buyer” means the person or organisation who buys or agrees to buy the Goods from NSC.
- 1.2 “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 NSC.
- 1.3 “Contract” means the Contract for the purchase and sale of the Goods to which these Conditions relate.
- 1.4 “DD” means the date specified by NSC as the date of delivery of the Goods to the Buyer by NSC.
- 1.5 “Delivery Charge” means the sum in addition to the Price payable by the Buyer to NSC for delivery of the Goods to the Buyer.
- 1.6 “Goods” means any items which NSC is to supply to the Buyer or has supplied to the Buyer in accordance with these Conditions (including any instalment or any part-supply) and shall where the context requires refer to an individual supply of items or more than one supply of items.
- 1.7 “NSC” means the NSC Global company registered in the country issuing the quotation or accepting the purchase order and whose registered or other office is located on such quotation or acceptance.
- 1.8 “Price” means the Price of the Goods specified by NSC to the Buyer and any additional Value Added Tax (VAT) or other taxes legally required to be paid with respect to the sale of the Goods (excluding taxes on the net income of NSC).
- 1.9 “Software” means the Software products (if any) and the license to use the same which is sold to the Buyer with the Goods.
- 1.10 “Working Day” means a calendar day between Monday and Friday excluding any Saturday, Sunday and all public holidays and during the applicable working hours of the NSC company issuing the quotation or accepting the purchase order.
- 1.11 “Writing” includes facsimile transmission, e-mail and other forms of electronic communication and any comparable means of communication.
- 1.12 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BUSINESS OF THE SALE

- 2.1 These conditions shall apply to all contracts for the sale of Goods by NSC to the Buyer notwithstanding any terms and conditions of the Buyer which the Buyer may send to NSC.
- 2.2 All orders to purchase Goods from NSC shall be made by means of confirmation in Writing from the Buyer and shall be subject to the terms set out in NSC's Quotation and shall in each case be deemed to be an offer by the Buyer to buy the Goods pursuant to these Conditions subject to acceptance by NSC.
- 2.3 Any variation of these Conditions shall be inapplicable unless agreed in Writing by NSC on NSC's behalf and the Buyer on the Buyer's behalf.
- 2.4 Any advice given or recommendation made by NSC, its employees or agent to the Buyer relating to the storage, application or use of the Goods which is not confirmed in Writing by NSC is acted upon at the Buyer's discretion and NSC shall not be liable for such advice or recommendation.
- 2.5 The Goods may be made to the Buyer's order. No modification cancellation or alteration whatsoever to the specifications of the Goods are permitted except as provided by the Conditions.

3. PRICE

- 3.1 The Price shall be payable in sterling (or any other currency specified in NSC's quotation or as agreed in writing) by the Buyer to NSC in accordance with paragraph 4 below.
- 3.2 NSC, if practicable and at its discretion, may agree to vary the quantity and/or specification of the Goods at the Buyer's request in Writing provided that in all cases the Buyer's request is received by NSC at least 5 Working Days prior to the scheduled shipment date of the Goods. Any variation to the Goods shall be charged at prevailing prices at the time of the request and there shall be an administration fee of £250.00 plus VAT.

4. TERMS OF PAYMENT

- 4.1 Unless the parties agree otherwise in a document signed by both parties, the Buyer shall pay the Price together with any Delivery Charge within 30 Days of the DD or the date on which NSC's invoice in respect of the Goods is received by the Buyer whichever is the earlier.
- 4.2 If the Buyer fails to pay any sums due to NSC, NSC may (without prejudice to any other right or remedy available) charge interest from the date the payment became due until the date of payment on a day to day basis at a rate of 3% above the base rate of the Bank of England from time to time in force and which shall accrue at such rate after as well as before judgement.

5. COLLECTION AND DELIVERY

- 5.1 NSC will use all reasonable endeavours to effect delivery on the DD but does not guarantee to do so. NSC will not be liable for any direct or indirect loss resulting from failure to deliver on the DD and time for delivery shall not be of the essence.
- 5.2 NSC reserves the right to make delivery by instalment.
- 5.3 If the quantity or description of the Goods is varied pursuant to these Conditions further time may be required by NSC to supply the Goods. Accordingly, the DD may be rendered ineffective. In these circumstances, a revised DD will be given to the Buyer.
- 5.4 The Buyer shall make all necessary arrangements to take delivery of the Goods on the DD. If the Goods remain undelivered for 14 days from the DD due to the Buyer's failure to make arrangements in accordance with this paragraph, then NSC will be entitled to terminate the Contract or charge the Buyer for storage of the Goods. If NSC chooses to terminate the Contract, NSC will make a full refund of any sum paid by the Buyer but NSC will be entitled to deduct from the refund an administration fee of £1,000.00 plus VAT.

6. RISK AND PROPERTY

- 6.1 Risk of damage to or loss of the Goods or any instalment thereof passes to the Buyer upon the Goods leaving the premises of NSC or NSC's agent, and the Buyer shall accordingly take steps to insure the Goods against all risks, including for the period of time that the Goods are in transit.
- 6.2 NSC and the Buyer expressly agree that until NSC has been paid in full for the Goods comprised in this or any other sales contract between them and in respect of all outstanding amounts due to NSC from the Buyer or any associated or subsidiary or holding company of the Buyer or from any director or shareholder of the Buyer then:
 - (i) The Goods shall remain the property of NSC and the Buyer, as bailee of them for NSC, will store the same for NSC in a proper manner without charge and in such a way that the Goods are clearly identified as being the property of NSC notwithstanding that the risk therein shall pass to the Buyer as provided herein;
 - (ii) At any time NSC may recover from the Buyer the Goods remaining in the Buyer's possession and for the purposes thereof may enter upon any premises of or occupied by the Buyer or any third party (with the consent of that third party).

Notwithstanding the preceding Conditions, all risk in respect of the Goods shall be assumed by the Buyer upon the delivery of the same to the Buyer.

7. WARRANTIES AND LIABILITY

- 7.1 Unless otherwise specified in writing NSC does not offer any form of warranty in respect of the Goods. The Goods may be sold with the benefit of a warranty offered by the manufacturer but in such cases the Buyer shall be required to deal direct with the manufacturer.
- 7.2 NSC will not be liable in respect of any defect in the Goods:-
- (i) Arising from any drawing, design or specification supplied by the Buyer;
 - (ii) arising from fair wear and tear, wilful damage, negligence, save for a negligent act on the part of NSC, abnormal working conditions, failure to follow NSC's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without NSC's approval;
 - (iii) Arising from the incorrect or unapproved installation of software products (including but not limited to the Software) in the Goods or the installation of any software for which the Buyer has not obtained a license and in respect of which a license is required to operate the software which damages the Goods or causes them to malfunction.
- 7.3 Software may be manufactured by third parties and protected by copyright and specific terms and conditions. The Buyer agrees to be bound by the terms and conditions stated in the license provided with the Software. These terms and conditions do not form a part of the Conditions or the Contract. Any defects in the Software do not give rise to a liability on the part of NSC.
- 7.4 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.5 NSC will accept no liability whatsoever for any losses suffered or costs incurred by the Buyer if the Buyer chooses to purchase alternative products or replacements for Goods supplied by NSC.
- 7.6 Where any claim is made by the Buyer and upon NSC's engineer's examination of the Goods, the said engineer finds that the fault or defect has been caused by any reason other than one attributable to NSC, its agents or employees NSC will be entitled at its discretion to charge the Buyer an examination fee of £1,000.00 plus VAT which fee shall be payable immediately by the Buyer.
- 7.7 NSC will not be liable to the Buyer at any time (save as provided herein) for:-
- (i) loss of profit; and/or
 - (ii) loss of goodwill; and/or
 - (iii) any economic loss of consequential loss (including loss or damage suffered by the Buyer as a result of an action brought by a third party);
- caused by defects in the Goods even if such loss is reasonably foreseeable.

- 7.8 NSC shall not be liable to the Buyer for any loss of data caused by defects in the Goods in circumstances where the Buyer has omitted to back up all material on relevant storage media.
- 7.9 NSC accepts no liability for any claim in respect of data supplied by the Buyer where the handling of such data constitutes a breach of the Data Protection Act.
- 7.10 NSC accepts no responsibility for the nature of the Buyer's data.

8. FORCE MAJEURE

- 8.1 NSC 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 NSC's obligations in relation to the Goods, if the delay or failure was due to any cause beyond NSC's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as caused beyond NSC's reasonable control:-
- (i) Act of God, explosion, flood, tempest, fire or accident;
 - (ii) War or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - (iii) Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - (iv) Import or export regulations or embargoes;
 - (v) Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of NSC or of a third party);
 - (vi) Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - (vii) Power failure or breakdown in machinery.

9. LAW

The Conditions shall be governed by the laws of the country in which the pertinent NSC entity is registered irrespective of conflict of law rules and subject to the exclusive jurisdiction of the courts of that country.

10. FORBEARANCE

No forbearance, delay or indulgence by NSC shown or granted to the Buyer whatsoever in respect of these conditions or otherwise shall in any way affect or prejudice the rights of NSC or be taken as a waiver of any of these Conditions.

11. SET OFF BY THE BUYER AND OTHER REMEDIES

The Buyer specifically agrees that it has no right under any circumstances whatsoever to set off any debt owed to it by NSC against any sums payable by the Buyer to NSC. Nothing in this clause will affect the legal remedies of the Buyer to the extent mandated by law.

12. TERMINATION

- 12.1 NSC may withhold or cancel further any provision of Services under these Conditions and may recover all losses resulting there from if the Buyer:

- (i) fails to make payment on the due date under any contract with NSC, or
- (ii) enters into a composition or individual or corporate voluntary arrangement with its creditors, or has a receiver appointed or passes a resolution for winding up or if a court shall order it to be wound up or made bankrupt or it shall have a winding up or bankruptcy petition presented against it by any creditor or if the members or creditors of the Buyer shall pass a resolution to place the Buyer into liquidation, or
- (iii) is in breach of the Conditions and fails to cure such breach after 5 working days' prior notice (notwithstanding that on a former occasion or occasions NSC may have waived its rights), or
- (iv) if NSC reasonably apprehends that any of the above events is about to occur and notifies Buyer accordingly.

The exercise of NSC's rights under Condition 12 shall be without prejudice to NSC's other rights or remedies and it is agreed that the Buyer shall pay NSC any amounts due in respect of Goods already delivered.

13. NOTICES

All notices to be sent by NSC shall be sufficiently given if sent by email, facsimile or pre-paid ordinary post addressed to the Buyer's usual place of business or registered office and shall be deemed to have been received the next following day.

14. INVALIDITY AND SEVERABILITY

If any provision of these Conditions shall be found by any Court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. NSC and Buyer hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.