

# GENERAL TERMS AND CONDITIONS OF SALE

## APPLICATION OF THESE TERMS AND BASIS OF THE CONTRACT

- 1.1 These terms apply to any contract for the sale of the products set out in the Order or Order Acknowledgment (**Products**) (or any part of them) between Elmdene International Limited (a company registered in England Wales with company number 00752060) (**Company**) and the buyer of such Products (**Customer**) and any such contract is referred to in these terms as the **Contract**.
- 1.2 These terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 1.3 Any special term specified by the Company in a written quotation or Order Acknowledgment shall be incorporated in the Contract and shall override any of these terms with which it is inconsistent.
- 1.4 The Customer's order for the Products based on the Company's price list or written acceptance of the Company's quotation (**Order**) constitutes an offer by the Customer to purchase the Products in accordance with these terms.
- 1.5 The Order shall only be deemed to be accepted when the Company issues a written acceptance of the Order (**Order Acknowledgment**), at which point the Contract shall come into existence. An oral Order shall not constitute a valid offer.
- 1.6 A quotation shall only be valid for a period of 30 days after the date of issue.
- 1.7 The Company reserves the right to alter a quotation or Order Acknowledgment to correct any typing or clerical error, or the specifications of the Products if required by any applicable statutory or regulatory requirement, and the Company shall notify the Customer in any such event. Any such alteration shall not permit the Customer to rescind or terminate the Contract.
- 1.8 The minimum value of any valid Order is £50, exclusive of VAT or other sales tax.

## PRODUCTS

- 2.1 If any Product becomes unavailable owing to an event or circumstance beyond the Company's reasonable control, the Company may substitute a Product of a similar performance and specification for that Product.

## SPECIFICATIONS

- 3.1 Unless otherwise stated in the Contract, all specifications and particulars of weights and dimensions stated in the Contract and in the Company's sales literature are approximate only and where dimensions or weights are quoted in imperial measurements the Company reserves the right to supply any convenient metric equivalent or vice versa.
- 3.2 Every effort has been made to ensure that information given in Company literature is correct, but the Company accepts no liability for any errors.
- 3.3 The Company reserves the right to change the specification of any products quoted in its sales literature at any time without notice to the Customer.
- 3.4 Products supplied by the Company may only be used in accordance with the Company's technical specifications relating to such Products and the Company accepts no responsibility for loss or damage incurred where this condition is not complied with.

## DELIVERY

- 4.1 The Order Acknowledgment will contain the Company's initial estimated delivery date of the Products. The Company may confirm the estimated delivery date of the Products no more than 24 hours after the end of the next working day (in the United Kingdom) following issuance of the Order Acknowledgment. Time is not of the essence to provide such expected delivery date.
- 4.2 Where the Customer is located within the United Kingdom, the Company shall, unless agreed otherwise, deliver the Products DAP (Incoterms® 2020) to the premises set out in the Order or Order Acknowledgment or such other premises agreed by the parties from time to time, and delivery is completed on the completion of the unloading of the Products at such location.
- 4.3 Where the Customer is not located within the United Kingdom, the Company shall deliver the Products EXW or FCA (Incoterms® 2020), as applicable, at the loading bay at the Company's registered address (or as otherwise stated by the Company) and delivery is completed on the Company placing the Products at the disposal of the Customer or the Customer's courier at such location, or loading it onto the Customer's courier. For the avoidance of doubt, if delivery is EXW, should the Company or any of its agents participate in the loading of the Products, the Customer bears the risk of any loss of or damage to the Products during such loading. The Company may, if so requested by the Customer, arrange for a courier to collect the Products on the Customer's behalf at the Company's premises as set out above in which case the Customer still bears the risk of any loss of or damage to the Products during the loading (if EXW) and transport of the Products.
- 4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Products that is caused by an event outside the Company's reasonable control or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.5 If the Customer fails to accept or take (as applicable) delivery of the Products within 7 days of the Company notifying the Customer that the Products are ready, then, except where such failure or delay is caused by an event beyond the Customer's reasonable control or the Company's failure to comply with its obligations under the Contract in respect of the Products:
  - 4.5.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the seventh day after the day on which the Company notified the Customer that the Products were ready; and
  - 4.5.2 the Company shall store the Products until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 4.6 If 14 days after the day on which the Company notified the Customer that the Products were ready for delivery the Customer has not taken or accepted delivery of them, the Company may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products or charge the Customer for any shortfall below the price of the Products.
- 4.7 As soon as practicable and in any event within 7 days after delivery, the Customer shall check the Products and give written notice to the Company and, where applicable, the carrier of any damaged, missing or incorrectly delivered items. Clauses 4.8 and 4.9 shall only apply where the Company is responsible for delivering the Products to the Customer's premises or other location as specified by the Customer (otherwise the Company will

provide the Customer with its reasonable assistance in investigating any items damaged or lost in transit). Clause 4.10 shall apply where the Company delivers incorrect items to the Customer, or, where the Products are delivered EXW or FCA (Incoterms® 2020), the Customer can prove that the Products were damaged on delivery.

- 4.8 If the Customer has not received the Products within 10 days after notification of despatch the Customer shall immediately give written notice to the Company and the carrier.
- 4.9 If there is any damage or loss to the Products in transit, and the Customer has given due notice under clause 4.8 above, the Company shall as soon as practicable after being notified repair or at its option replace the Products.
- 4.10 If any incorrect items have been delivered, or, if there is any damage to the Products, where the Products are delivered EXW or FCA (Incoterms® 2020), the Company shall as soon as practicable after being notified replace the incorrect or damaged items. In such circumstances, the Products will be delivered DAP (Incoterms®) to the Customer's premises or other location as agreed by the parties irrespective of whether the Customer is located in the United Kingdom or not.
- 4.11 The Customer shall be deemed to have accepted all Products that it has not rejected by written notice to the Company within 14 days of delivery.
- 4.12 A Returns Material Authorisation (**RMA**) must be obtained from the Company before any Product is returned by the Customer. Any returned Product arriving at the Company's premises without documentation quoting the RMA will be stored, at the Customer's cost, for a period of 90 days during which the Customer may collect the Product from the Company's premises during the Company's normal business hours. Upon expiry of the 90 days, the Company may resell or otherwise dispose of the Product and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Product or charge the Customer for any shortfall below the price of the Product.
- 4.13 The Customer is responsible for obtaining, at its own cost, such import licences and other consents in relation to the Products as are required from time to time and, if required by the Company the Customer shall make those licences and consents available to the Company prior to the relevant delivery.

## EXTENSION OF TIME

- 5.1 If delivery is delayed by any event or circumstance outside the Company's reasonable control, the Company may by notice to the Customer extend the time for delivery until a reasonable time after such event or circumstance has ended.

## PRICE

- 6.1 The price of the Products shall be the amount specified in the Order or Order Acknowledgment or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery. The price specified excludes:
  - 6.1.1 any VAT or other sales tax, import duty or any other levy and the Customer shall pay any additional amounts in respect of any VAT or other sales tax (on receipt of a valid invoice) or reimburse the Company for any import duty or any other levy; and
  - 6.1.2 the costs and charges of transport of the Products, unless stated otherwise in the Order Acknowledgment, unless the Products are delivered Ex Works (Incoterms® 2020) to the Customer or where the Company has arranged a courier on behalf of the Customer in accordance with clause 4.3, which shall be invoiced to the Customer,and no deduction for early settlement or for any set off or counter claim may be made.
- 6.2 If a currency exchange rate is specified in the quotation or Order Acknowledgment the price shall be adjusted in proportion to any change in the exchange rate as at the date of delivery.
- 6.3 If there is any increase in any VAT or other sales tax, import duty or other levy affecting the cost to the Company of the Products the Company may adjust the price by the amount of the increase.
- 6.4 The Company reserves the right to vary the price of the Products by any amount before delivery to reflect the following:
  - 6.4.1 any delay attributable to a change in or the insufficient instructions of the Customer;
  - 6.4.2 any factor beyond the Company's reasonable control (including, but not limited to variations in the cost of materials, labour, transport, duties, taxes, foreign exchange rates or any costs of whatsoever nature between the date of the Contract and the date of delivery); and
  - 6.4.3 any request by the Customer to change the delivery date(s), quantities or types of Products ordered, or the specification.

## PAYMENT

- 7.1 The Company may invoice the Customer for the Products on or at any time after notification that the Products are ready for delivery in accordance.
- 7.2 The Customer shall pay each invoice submitted by the Company within 30 days after the date of the invoice in full and in cleared funds (time of payment being of the essence).
- 7.3 If the Customer fails to make a payment after the period specified in clause 7.2, all amounts due under the Contract (if unpaid) shall be paid in full or any part of the price which is due and unpaid shall be paid, in addition to any other rights or remedies and notwithstanding clause 9.1.
- 7.4 The Customer shall pay interest at the rate 1.5% per month on any amount due and unpaid under the Contract for each calendar month or any lesser period that the amount remains unpaid, whether before or after judgement.
- 7.5 The Company may deliver the Products by more than one consignment, which shall be invoiced and paid for separately. Each such consignment shall be deemed to be a separate contract subject to these terms. Any delay in delivery or defect in a consignment shall not entitle the Customer to cancel any other consignment.
- 7.6 The Customer acknowledges that a carriage charge will apply to any Orders under £250 plus VAT or other sales tax.

## RISK

- 8.1 The risk in the Products shall pass to the Customer on completion of delivery in accordance with clause 4.2 or clause 4.3.

## TITLE

- 9.1 Title in the Products shall pass to the Customer upon payment in full (meaning in relation to a cheque or other bill of exchange, honouring of the cheque or bill, or in cleared funds) of all amounts to be paid to the Company under the Contract or the Customer resells the Products, in which case title to the Products shall pass to the Customer at the time specified in clause [ .
- 9.2 Until then, the Customer shall:
- 9.2.1 store the Products separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
- 9.2.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Products; and
- 9.2.3 keep the Products in its possession as bailee and take all reasonable care of them and keep them properly maintained and fully insured against all risks for their full price from the date of delivery.
- 9.3 Subject to clause 9.4, the Customer may resell or use the Products in the ordinary course of its business (but not otherwise) before the Company receives payment for the Products. However, if the Customer resells the Products before that time:
- 9.3.1 it does so as principal and not as the Company's agent; and]
- 9.3.2 title to the Products shall pass from the Company to the Customer immediately before the time at which resale by the Customer occur.
- 9.4 At any time before title to the Products passes to the Customer, the Company may:
- 9.4.1 By notice in writing terminate the Customer's right under clause 9.3 to resell the Products or use them in the ordinary course of its business; and
- 9.4.2 require the Customer to deliver up such Products in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

## WARRANTY

- 10.1 If any defect in the materials or workmanship of the Product appears within the **Warranty Period**, the Company shall as soon as practicable make good the defect or at its option replace the Product with a product of similar specification, provided that:
- 10.1.1 the Product has been properly maintained in accordance with the Company's instructions or good trade practice;
- 10.1.2 the Product has not been modified or operated beyond its specified capacity or otherwise misused, and the power supply and environmental conditions have been maintained within the specified limits;
- 10.1.3 the Customer has given written notice to the Company within 7 days of the appearance of the defect;
- 10.1.4 the Company is given a reasonable opportunity of examining such defective Product; and
- 10.1.5 the Customer shall, if requested by the Company, return the defective part of the Product to the Company's place of business, carriage paid by the Customer, in accordance with the Company's RMA procedures.
- 10.2 The Warranty Period shall be 12 months (unless otherwise stated) commencing from the date of delivery of the Products concerned.
- 10.3 Where a Product has a Warranty Period of more than 12 months, the Warranty Period for any batteries, supplied with or for use with that Product shall be 12 months from the date of delivery of the batteries.
- 10.4 The Contract shall include any terms as to title implied under Section 12 of the Sale of Goods Act 1979 and any terms as to quality and fitness implied under Section 14 of that Act. Any other terms implied under the Sales of Goods Act 1979 or otherwise by law are, to the fullest extent permitted by law, excluded from the Contract.
- 10.5 If the Company replaces the Product, it will do so free of charge and any replacement product will be delivered DAP (Incoterms®) to the Customer's premises or other location as agreed by the parties irrespective of whether the Customer is located in the United Kingdom or elsewhere. If the Company finds that the warranty does not apply:
- 10.5.1 the Company may return the Customer's Product at the Customer's expense and risk, if so requested; or
- 10.5.2 the Customer may purchase a replacement product and such purchase will be subject to these terms.

## LIFETIME WARRANTY FOR POWER SUPPLY PRODUCTS

- 11.1 If any defect in the materials or workmanship of a Power Supply Product (as defined below) appears during its Product Lifetime (as defined below), the Company shall replace the Power Supply Product with a product of similar specification, provided that in the Company's reasonable opinion:
- 11.1.1 the Power Supply Product has been properly installed and maintained in accordance with the Company's oral and/or written instructions and specifications;
- 11.1.2 the Power Supply Product has not been modified in any way or operated beyond its specified capacity or otherwise misused, and the power supply, environmental and atmospheric conditions have been maintained within the specified limits;
- 11.1.3 the defect has not arisen as a result of accidental damage, willful damage, negligence, damage while in transit or as a result of fair wear and tear;
- 11.1.4 the defect is shown to have materially impeded the functioning of the Power Supply Product with the result that it is not fulfilling its specified purpose;
- 11.1.5 unless otherwise agreed by the Company, the Power Supply Product has a date of manufacture which is after 1<sup>st</sup> January 2022; and
- 11.1.6 no parts have been incorporated in the Power Supply Product other than any parts which have been supplied by the Company and installed in accordance with the Company's written instructions.
- 11.2 A "Power Supply Product" shall mean any power supply product supplied by the Company and purchased by the Customer under these terms (but excluding batteries supplied with or for use with such product), other than a power supply product associated with the Company's CCTV products and POE-Ultrapod.
- 11.3 The "Product Lifetime" of a Power Supply Product shall mean the period starting at the end of the Warranty Period for that Power Supply Product and ending at the end of that Power Supply Product's normal expected life when used under appropriate conditions, but not in any event exceeding ten (10) years from its date of manufacture.
- 11.4 In relation to any claim under this lifetime warranty, the Customer must:
- 11.4.1 provide written notice of the claim within 30 days of the appearance of the defect;

- 11.4.2 at the Company's request, return the defective Power Supply Product to the Company's place of business, carriage paid by the Customer, in accordance with the Company's RMA procedures;
- 11.4.3 at the Company's request, permit the Company access to the location in which the defective Power Supply Product has been installed and operating since the date of initial installation in order to enable the Company to evaluate the claim; and
- 11.4.4 supply any information that may be required by the Company in support of the claim (including, but not limited to, evidence of purchase, installation, maintenance and operation of the Power Supply Product since the date of initial installation).
- 11.5 Clause 10.5 shall apply to replacements of products under this clause.

## WEEE

- 11.1 The Customer shall exclusively finance the collection and delivery of waste electrical and electronic equipment (**WEEE**) to the recyclers address specified by the Company, as required by the Directive 2002/196/EC (and applicable national law) or the Waste Electrical and Electronic Equipment Regulations 2013 (SI 2013/3133) (as amended from time to time).
- 11.2 This clause applies to all new electrical and electronic equipment (EEE) put on the market after August 2005 (known as new WEEE), as well as all EEE sold before 13 August 2005 (known as historic WEEE) which becomes waste as a result of a purchase of new EEE from the Company after 13 August 2005.
- 11.3 If the Customer resells the EEE to a customer, the Customer will ensure that this clause in its entirety is included in the contractual arrangements governing the sale to its customer.
- 11.4 The Customer agrees to indemnify and keep indemnified and hold harmless the Company from and against all costs and expenses which the Company incurs or suffers in the UK or an EU Member State, as a result of a direct or indirect breach or negligent performance or failure in performance by the Customer of its obligations under this clause.

## EXCLUSION OF LIABILITY

- 12.1 The Company's obligations under the Contract shall be instead of and in substitution for and the Customer waives any claim in respect of any other conditions warranties or terms (whether express implied pursuant or statutory or otherwise) and any other obligations or duties whatsoever (whether in contract or negligence or pursuant to statute or otherwise) of the Company or associate companies, employees or sub-contractors.
- 12.2 Subject to clause 12.4, the Company shall not be liable to the Customer for:
- 12.2.1 loss of profits;
- 12.2.2 loss of sale or business;
- 12.2.3 loss of agreements or contracts;
- 12.2.4 loss of anticipated savings;
- 12.2.5 loss of use or corruption of software, data or information;
- 12.2.6 loss of or damage to goodwill; or
- 12.2.7 indirect or consequential loss or damage.
- 12.3 Subject to clause 12.4, the Company's total liability for any claims of whatever nature resulting from one or more related acts or omissions is limited to:
- 12.3.1 £50,000 in aggregate for Products classified as alarms; and
- 12.3.2 £250,000 in aggregate for all other Products.
- 12.4 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 12.4.1 death or personal injury resulting from negligence;
- 12.4.2 fraud or fraudulent misrepresentation;
- 12.4.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- 12.4.4 defective products under the Consumer Protection Act 1987.
- 12.5 Clauses 12.1 to 12.5 shall survive the termination of the Contract.

## SUB CONTRACTING

- 13.1 The Company may at any time sub-contract the performance of all or any of its obligations under the Contract

## EXPORT LIMITATIONS

- 14.1 The Company shall not resell or otherwise dispose of the Products to any country in contravention of the prevailing export regulations of the U.K or the US.

## TERMINATION

- 15.1 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 15.1.1 the Customer commits a material breach of any term of the Contract (and if the breach is remediable) fails to remedy that breach within 14 days of the Company notifying it in writing of the breach and requiring its remedy;
- 15.1.2 the Customer fails to pay any amount due under the Contract on the due date for payment;
- 15.1.3 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 15.1.4 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 15.1.5 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 15.2 Without limiting its other rights or remedies, the Company may suspend supply of the Products under the Contract if the Customer becomes subject to any of the events listed in clauses 15.1.3 to 15.1.5 or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.

- 15.3 On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Products supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 15.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 15.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination the Contract shall remain in full force and effect.

## **GENERAL**

- 16.1 Any notice to be given under the Contract shall be in writing and deemed to have been given if delivered by hand at the time the notice is left at the proper address, sent by pre-paid first class post or other next working day delivery service at 9am on the fourth day after posting, sent by airmail at 9am on the seventh day after posting, or delivered by email to the appropriate address specified in the Company's quotation or Order Acknowledgement at the time of transmission.
- 16.2 Neither party shall rely on any variation of the Contract or a waiver of any of its terms unless it is in writing and signed by the parties (or their authorised representatives).
- 16.3 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 16.4 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 16.5 The Company's customer support team (details of which can be found on the Company's website) will do their best to resolve any problems a Customer has with the Company or the Products.
- 16.6 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of England and Wales and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation shall be subject to the exclusive jurisdiction of the English Courts.