

SYSTEM Q LTD - CONDITIONS OF SALE

All business carried out by System Q Limited is subject to the terms and conditions below. You must ensure these terms are understood, as you accept them by trading with us.

1 DEFINITIONS & GENERAL - 1 In these conditions:

"Seller" means System Q Ltd. "Goods" means the Goods (including any instalment of the Goods), which the Seller is to supply in accordance with these conditions. "Buyer" means the immediate purchaser of the Goods from the Seller. "Contract" means the relevant contract to which these Conditions apply. "Stated Price" means the agreed price stated in a contract of sale to which these Conditions apply. "Writing" - includes fax, SMS text message, e-mail and comparable means of communication.

2. FORMATION OF CONTRACT. - 2.1 Quotations are not binding and the Seller may refuse to accept any order or withdraw it before acceptance of order. An order is deemed to be accepted only once the Seller has accepted it in writing, commenced work on it, dispatched it or otherwise appropriated items for performance of the order.

2.2 Acceptance will be subject to these Conditions and the terms of the quotation and no qualification or condition contained in any request for quotation, order or other communication from the Buyer shall form any term of the Contract unless expressly accepted in writing by a Director of the Seller. Unless otherwise stated therein a quotation will lapse thirty days after its date of issue.

2.3 Orders are accepted subject to the credit status of the Buyer being satisfactory to the Seller who may cancel the Contract if its credit enquiries at any time prove unsatisfactory to it.

2.4 Acceptance to quotation must be accompanied by all information necessary for the Seller to proceed with the Contract. If work is delayed or additional costs incurred through lack of such information or changes in information, the Seller may amend the Contract price to cover the additional costs and/or extend the delivery date.

2.5 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, and waives any claim for breach of, any such representations, which are not so confirmed.

3. PRICE - Unless otherwise agreed in writing the Stated Price is ex-works, Seller's address and is expressed in pounds sterling net and is exclusive of VAT and all other taxes, levies, import duties and charges of a similar nature, and all carriage, insurance, packing, freight and installation charges.

4. TERMS & PAYMENT - 4.1 The Seller may invoice the Buyer for the price of the Goods on, or at any time after their delivery, unless they are to be collected by the Buyer, or the Buyer wrongfully fails to take delivery of them, in which event the Seller may invoice the Buyer for the price at any time after the Seller has notified the Buyer that they are ready for collection, or has tendered delivery of them.

4.2 Where the Buyer does not have a valid account with the Seller, payment must be made with order.

4.3 Where the Buyer has a valid account with the Seller, standard payment terms are 30 days from the date of invoice unless alternate terms have been agreed in writing. The Buyer shall make payment no later than the 7th day of the month following the due payment date of the invoice, notwithstanding that delivery may not have taken place, or property in the Goods have not passed to the Buyer. Payment is deemed to be made when the Seller's bank account is credited with the amount due with cleared funds. The Seller may invoice for each shipment separately.

4.4 The Buyer shall make all payments hereunder in full without deduction, set-off or counterclaim whatsoever from, or against the same, except as required by law and regardless of any delays in delivery or performance or any corrections or adjustments that may be necessary to the Goods.

4.5 Where an order placed for Goods includes a discount or free product(s) for whatever the reason, if any product from that order is returned to the Seller, or no payment is received by the Buyer from the Seller for that order in part or full, the discount value must be paid to the Seller and the free product returned to the Seller. All other of these terms and condition still apply.

4.6 The Seller does not operate a "Sale or Return" Policy. At the Seller's discretion, the Buyer may cancel the Contract in whole (but not in part, unless the Seller so agrees in writing) by written notice to the Seller accompanied by payment of a cancellation fee as follows:

Over 90 days before agreed delivery date = 20% of the Stated Price.
90 days to 61 days before agreed delivery date = 25% of the Stated Price.

60 days or less before agreed delivery date = 30% of the Stated Price. Provided that if the Goods have been described as "Specials" on the quotation or the written confirmation of the order, the cancellation charge shall be 100% of the Stated Price regardless of when written notification of cancellation is received and accepted by the Seller and which includes any printed matter, artwork of any kind, demonstration equipment and related equipment and parts of any kind.

4.7 If any monies payable by the Buyer to the Seller are not paid when due or if the Buyer is in breach of any of its obligations (whether under the Contract or any other agreement with the Seller) or becomes bankrupt, enters into liquidation, has an administrative order made in respect of it or suffers the appointment of a receiver to all or any of its assets, the Buyer shall immediately pay to the Seller all monies payable by the Buyer under the Contract or any other agreement with the Seller (whether or not then otherwise due for payment) and without prejudice to any other remedy.

(a) The Seller shall have the following rights in respect of the Contract and every other agreement with the Buyer. (i) To suspend or cancel the delivery of any further Goods and any other performance by the Seller (and if suspended the Seller's time for performance shall be extended accordingly); (ii) to terminate all or any part of the Contract and any unexecuted contract with the Buyer.

(b) The Buyer shall pay to the Seller by way of full indemnity all costs of any nature incurred by the Seller arising from the breach by the Buyer (including, but not limited to, all legal costs on a full indemnity basis).

4.7 The Buyer shall pay interest (after as well as before judgement) on any monies payable by the Buyer to the Seller which are not paid when due at an annual rate of 4 percentage points above the base rate of Royal Bank of Scotland from time to time compounded with monthly rests calculated from the date of due payment until the date of actual payment. The Buyer shall indemnify the Seller (after as well as before judgement and on as many occasions as necessary to indemnify fully the Seller) against any loss or expense which the Seller may suffer in the event of any delay in payment or other breach of contract by reason of any change in currency exchange rates between the date payment fell due and the date payment is actually received by the Seller and no proof or evidence of any actual loss shall be required by the Buyer.

5. VARIATIONS IN PRICE. - In the event of variation or suspension of work due to the Buyer's instructions, the Seller by written notice to the Buyer may increase the price, by such an amount as it reasonably considers will fairly compensate for additional cost thereby incurred by it. The Seller, by notice to the Buyer at any time before delivery, may increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond its control (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 of the Goods which is requested by the Buyer, or any delay caused by any instructions by the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

6. DELIVERY. - 6.1 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 they are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering them to that place. Charges will be levied for delivery.

6.2 Whilst every effort will be made to adhere to any agreed shipment dates, such dates are not guaranteed and the Seller shall not be liable for any expense, loss or damage arising directly from any delay in shipment or delivery however caused. Late delivery shall not be grounds for rejecting Goods or Terminating the Contract.

6.3 The Buyer shall accept delivery of the Goods by instalments if the Seller so requests.

6.4 If the Buyer, once notified the Goods are ready for despatch or collection, fails to accept delivery or make collection, or if the delivery programme is varied at the Buyer's request, the Seller may invoice the Buyer for the Stated Price of those Goods (which the Buyer shall pay as though the Goods had been dispatched or collected on the date of notification) and may charge the Buyer for storage, insurance and all other expenses incurred by it in respect of those Goods and risk in those Goods shall be treated as having passed to the Buyer from the date of the Seller's notification.

6.5 If the Buyer fails to accept delivery fourteen days after being notified that the Goods are ready for despatch, the Seller may, at its option and in addition to the above rights, treat this as a cancellation of the order with effect from the date the Seller notified the Buyer that the Goods were ready for despatch. In these circumstances clause 4.4 shall apply.

6.6 Where a Contract provides for delivery by instalments, delays in or the non-delivery of any instalment shall not entitle the Buyer to cancel the Contract or reject any other instalment.

7. FORCE MAJEURE. - If the Seller's ability to perform its obligations hereunder is limited, delayed or prevented in whole or in part by any cause not reasonably within its control, including without limitation, war, hostilities, riots, civil commotion, strike, lock-out, sit in, trade dispute, flood, accident to plant or machinery, shortage of any material, labour, electricity or other supply or by any law, rule, regulation, order or other action of any public authority, transportation delays or the refusal or delay in granting any necessary export or import licence, the Seller shall be excused, discharged and released without penalty from performance of the Contract to the extent that such performance is so limited, delayed or prevented. If the Goods or any part thereof has been delivered, the Buyer shall pay to the Seller a proportion of the Stated price appropriate to the Goods that have been delivered and the amount (if any) of the installation work carried out. If no equipment has been delivered and the Contract becomes impossible to perform for reasons not reasonably within the Seller's control, the Seller's liability shall be limited to repayment to the Buyer of any relevant sums paid by him to the Seller.

8. RISK - 8.1 Risk of damage to, or loss of the Goods, shall pass to the Buyer: (a) 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 (b) in the case of Goods to be delivered elsewhere, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods when the Seller has tendered delivery of them.

8.2 The Seller shall not be obliged to give the notice required by section 32(3) of the Sale of Goods Act 1979, or any notice of intended despatch.

9. PROPERTY - 9.1 Notwithstanding that the Buyer obtains possession of the Goods, the legal and equitable title will remain with the Seller until payment has been received from the Buyer of the Stated Price in full with all VAT thereon and all other monies that may be or become payable from the Buyer to the Seller in relation thereto. Until such time the Buyer shall hold such Goods as bailee in a judiciary capacity for the Seller and shall store the Goods in such a way as to show clearly that they are the property of the Seller and the Seller shall be entitled to require the Buyer to deliver such Goods or any of them to it on demand, and if the Buyer fails to do so forthwith, to enter the Buyer's premises for the purpose of collecting them (to include, without prejudice to the generality of the foregoing, the dismantling of any item into which such Goods have been incorporated) and the Buyer shall be responsible for all the Seller's costs with so doing whether the subject of this Contract or any other Contract for which payment has not been made.

9.2 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.

9.3 The Buyer may however, subject to sub-clause 10.4 below, use or sell such Goods by way of bonafide sale in the ordinary course of its business on its standard terms and conditions by way of sale as principal (not as agent) but that the sale will constitute a sale by the Buyer of the Seller's property and accordingly the Buyer will account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, up to the total amount outstanding in respect of such Goods and pending such accounting will keep all such proceeds separate from any monies or property of the Buyer and third parties, and in the case of tangible proceeds, properly stored, protected and insured, and hold the same on trust for the Seller.

9.4 In any event, the Seller, (without prejudice to any other rights or remedies available to it) may without notice terminate all or any part of the Contract or suspend or cancel deliveries thereunder and shall have a general lien on all the Buyer's Property then in the Seller's possession (whether as consignee or otherwise) in respect of any sums which may be owing by the Buyer to the Seller on any account whatsoever and, on the expiration of fourteen days notice, the Seller shall be entitled to dispose of the same and apply the proceeds towards satisfaction of such sums.

9.5 The Seller shall be entitled to apply payments received from the Buyer in satisfaction of whichever invoice or part thereof as the Seller shall in its absolute discretion decide and shall be entitled to vary such application as many times as it shall desire until such time as all sums owing by the Buyer to the Seller have been paid.

9.6 Where Goods are sent to the Buyer on a loan agreement hereunder described as Demonstration Equipment, the Seller retains legal and equitable title of the equipment at all times or until full payment has been made for the agreed price including VAT where a sale has been agreed between Buyer and Seller. Until such a payment is made or the Goods are returned in full to the Seller, the Buyer shall hold and store the Goods in such a way as to show clearly that they are the property of the Seller and the Seller shall be entitled to require the Buyer to provide access for the Seller or a third party representative of the Seller such as a courier to collect the Goods for transportation. In this event, the Buyer shall take due care and attention to package the Goods for transportation in a safe and secure manner. In the failure to allow the Seller or third party access to retrieve the Goods, the Buyer shall agree to return the Goods to the Seller at their own expense (and under their own insurance) showing due care and diligence in doing so.

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 or workmanship, for a period of 12 months from the date of delivery. The Seller's liability for breach of warranty shall be limited solely to replacing or repairing without charge, the defective Goods or parts thereof.

This guarantee does not extend to carriage refunds of any description. It is at the Buyer's responsibility and cost to return any suspected or actual faulty Goods back to the Seller. The Seller may at its discretion return the Goods back to the Buyer when repaired or replaced with no return carriage charge.

10.2 The above warranty is given by the Seller subject to the following conditions:

(a) the Buyer shall notify the Seller of the defect(s) in writing within 7 days of the relevant defect becoming apparent;

(b) if requested by the Seller, the Buyer shall have returned such defective Goods or parts suitably packaged and at the Buyer's risk describing the circumstances in which such Goods or parts became defective;

(c) such defect shall have been proved by the Buyer to be attributable to the Seller and have arisen solely from the design of materials/workmanship;

(d) the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing or specification supplied by the Buyer; (e) the Seller 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 Seller's instructions (whether oral or in writing), misuse, alteration or repair of the Goods without the Seller's approval;

(f) the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall be entitled only to the benefit of any such warranty or guarantee, as is given by the manufacturer to the Seller;

(g) the Buyer has performed its obligations hereunder; (h) before returning the Goods to the Seller, the Buyer shall obtain a returns authorisation number (RMA number), which shall be quoted when the Goods are returned. Where credit is offered, failure to return the Goods within one month of being advised of a return authorisation number shall mean that relevant payment of the Goods is due in full.

10.3 Subject as expressly provided in these conditions and except where the Goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

10.4 The guarantee shall apply only to the Buyer. Where Goods are sold under a consumer sale (as defined by the Sale of Goods Act 1979), the statutory rights of the Buyer are not affected by these conditions.

10.5 The Seller shall not be liable to the Buyer by reason of any representation, or implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss or profit or otherwise), costs, expenses, or other claims for consequential compensation whatsoever (and 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, except as expressly provided in these conditions

11 PRODUCT LIABILITY -

11.1 The Buyer shall use all responsible endeavours to ensure that the Goods are operated in accordance with the instruction manuals supplied with the Goods and shall provide all relevant personnel with the necessary training in respect of the Goods.

11.2 The Buyer shall ensure that all warnings displayed on the Goods or the packaging, at the time of delivery, shall not at any time be removed, defaced or otherwise obscured and further the Buyer shall contractually pass such obligation to any third party recipient of the Goods.

11.3 The Buyer shall indemnify the Seller against any loss suffered as a result of the Buyer being in breach of any part of this term.

12 RESPONSIBILITY - The Seller shall not be liable to the Buyer, or any person claiming through the Buyer, for damage to any of the Buyer's property in possession of the Seller (whether as consignee or otherwise) or for any injury caused to any person by such property by reason of any cause beyond the reasonable control of the Seller.

13 CONFIDENTIALITY - The Buyer shall not at any time disclose or (save for operation of the Goods) use any confidential information or knowledge as to methods of manufacture, plans, drawings, price lists, documents or other information relating to the Goods or the Seller.

14 DELEGATION - The Seller may delegate his performance under the Contract and may assign any of its rights or benefits thereunder.

15 ASSIGNMENT - The Seller may assign any of its invoices to RBS Invoice Finance Ltd. This gives RBS Invoice Finance Ltd. the same status as the Seller, and the Buyer accepts that it trades with the same terms and conditions with RBS Invoice Finance Ltd as it does with the Seller. After any assignment, the Seller retains all its rights with the Buyer under these terms and conditions.

16 NOTICE - Any notice hereunder shall be in writing and effectively given if delivered to the office of the addressee normally used for communications relating to the Agreement or last known to the sender.

17 INTERPRETATION - All Contracts hereunder shall be governed and construed in accordance with English Law. The Buyer irrevocably submits to the non-exclusive jurisdiction of the English courts.