

## POSSUM LIMITED - CONDITIONS OF SALE

In these conditions Possum Limited is referred to as “the Seller” and the Buyer is referred to as “the Buyer”.

### **1 BASIS OF SALE**

- 1.1 The Seller's quotation (“the Quotation”) shall constitute an offer by the Seller to sell the goods and/or services specified in the Quotation (“the Goods”) subject to the terms set out in the Quotation and to these Conditions. The Quotation shall lapse thirty days after it is issued but the Seller may withdraw it by notice to the Buyer at any time before it has been accepted. The contract for the sale and purchase of any Goods between the Buyer and the Seller (“the Contract”) shall be formed when the Buyer accepts the Quotation or when the Buyer receives the Goods or part of the Goods whichever first occurs.
- 1.2 The terms set out or referred to in the Quotation and these conditions shall apply to the exclusion of any standard terms and conditions of the Buyer and of any representations made by or on behalf of the Seller and of all other terms and conditions. Sales leaflets, catalogues, illustrations and advertising matter issued by the Seller are intended for guidance only and do not form any part of the Contract.

### **2 DELIVERY**

- 2.1 Any date given by the Seller for despatch is intended as an estimate only and is not to be of the essence of the contract. If delivery is late the Buyer shall be entitled to notify the Seller that the Buyer requires delivery within a reasonable period (being not less than 30 days) and if the Seller fails to deliver within that time the Buyer may by notice to the Seller cancel the Contract. This right is the only right of the Buyer in respect of delay in delivery.
- 2.2 Unless otherwise agreed delivery shall be at the Buyer's premises.
- 2.3 The Buyer shall inspect the Goods promptly on (and in any event within 7 days of) delivery and report to the Seller any defects which are apparent.
- 2.4 The Buyer's signature given on any delivery note, or other documentation, presented for signature in connection with delivery of the Goods, is prima facie evidence that the correct quantity and quality of Goods has been delivered and that they have been delivered in good condition.
- 2.5 All packaging cases or materials unless otherwise agreed are chargeable and non-returnable.
- 2.6 The Seller may charge storage and carriage costs if the Buyer does not accept delivery on the date provided under the Contract or as may otherwise be agreed.
- 2.7 Acceptance of returned goods will be at the sole discretion of the Seller such returns being subject to a 10% restocking charge (with a minimum charge of £50.00 per return).

### **3 RISK AND PROPERTY**

- 3.1 Property in the Goods or part of the Goods shall not pass to the Buyer until the price of the Goods and all other Goods sold by the Seller to the Buyer has been paid unconditionally and in full.
- 3.2 Until the Seller by notice to the Buyer withdraws its consent the Buyer shall be entitled to sell the Goods and give good title thereto to a bona fide purchaser for value notwithstanding that title has not passed to the Buyer.
- 3.3 The Seller may by notice to the Buyer pass title to the Goods to the Buyer and shall be entitled thereafter to sue for the price.
- 3.4 Risk in the Goods passes to the Buyer on delivery or on collection by the Buyer.

### **4 PRICE AND PAYMENT**

- 4.1 The price of the Goods is as set out on the quotation and may be adjusted under this condition (4).
- 4.2 The Seller reserves the right, unless the sale is to a consumer, to amend the contract price and to invoice the Goods to the Buyer at the selling price ruling at the date of despatch.
- 4.3 Payment shall be made before delivery unless the Seller agrees otherwise.
- 4.4 The Buyer shall not be entitled to set off against the price any sums owed by the Seller to the Buyer nor to withhold or delay payment by reason of any claim the Buyer may have against the Seller.
- 4.5 If payment is not made in accordance with the agreed terms of payment:
  - the Seller may charge interest on the amount unpaid at the rate of interest provided from time to time under the Late Payment of Commercial Debts (Interest) Act 1998; and
  - the Seller may (without prejudice to its other rights) withhold the supply of any other Goods (including services) and require immediate payment of all outstanding sums.

### **5 WARRANTY**

- 5.1 Subject to condition 5.5 if any of the Goods become defective due to faulty materials or workmanship in manufacture within 12 months after delivery and the defect is notified to the Seller promptly on it being discovered the Seller will repair or replace (at its option) the defective item.
- 5.2 The Seller gives no other guarantee and all other conditions and warranties, express or implied, statutory or otherwise, are excluded except to the extent that on sale to a consumer they may not be excluded or restricted by law.
- 5.3 Where any of the Goods are replaced or repaired under condition 5.1 the provisions of that condition shall apply for the residue of the 12 month period.
- 5.4 The provisions of condition 5.1 do not extend to any Goods which have been subjected to misuse, neglect, accident, incorrect wiring, improper installation (when not carried out by the Seller) or to use in violation of instructions furnished by the Seller.
- 5.5 In the case of Goods not manufactured by the Seller the Buyer shall be entitled only to such benefits as Seller may receive under any guarantee given to it in respect thereof.

### **6 DESIGN AND SPECIFICATIONS**

- 6.1 The copyright and other intellectual property rights of whatever nature in the specifications, drawings and designs of the Seller and in any modifications and enhancements made thereto by the Seller and in the Goods and any other items made using such specifications, drawings and designs, are and shall remain the property of the Seller.
- 6.2 The Seller may alter designs or specifications without notice and deliver Goods conforming to the altered design and specification in fulfilment of the Contract.

### **7 VARIATION**

Neither the Buyer nor the Seller shall be bound by any variation, waiver of, or addition to the Contract except as agreed by both parties in writing and signed on their behalf.

## **POSSUM LIMITED - CONDITIONS OF SALE Contd**

### **8 LIABILITY**

- 8.1 The Goods are sold at a price reflecting their cost and on the basis that the Seller does not insure the Buyer or his use of the Goods. Accordingly, the Seller's liability arising out of or in connection with the Goods and any representations or advice the Seller may have made or given to the Buyer or any other user of the Goods relating either to the Goods themselves or to their use or to other products and whether in contract or in tort (including negligence) is restricted to the price paid to the Seller under the Contract.
- 8.2 The limitation of liability in condition 8.1 does not apply in relation to consumers nor to exclude the Seller's liability for death or personal injury arising from its negligence.
- 8.3 Subject to condition 8.2 the Seller excludes all liability for indirect or consequential loss including loss of profits, loss of business, loss of goodwill or reputation and third party claims.

### **9 TERMINATION**

The Seller shall be entitled to terminate the Contract without liability to the Buyer by giving written notice to the Buyer at any time if the Buyer makes a voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of solvent amalgamation or reconstruction) or a receiver is appointed over the whole or a material part of the assets of the Buyer or if the Seller has cause to believe that any of the events referred to above or any other consequence of insolvency is likely in relation to the Buyer.

### **10 ASSIGNMENT AND SUBCONTRACTING**

The Buyer shall not assign or transfer the whole of or any part of the Contract without the prior written consent of the Seller.

### **11 NOTICES**

Any notice consent approval or other communication to be given under the Contract shall be in writing and may be served personally or left at the address shown overleaf or may be sent by first class post to such address.

### **12 LAW AND JURISDICTION**

The Contract shall be governed by and construed in accordance with English law and parties submit to the exclusive jurisdiction of the English Courts.

**The Quotation and these Conditions of Sale do not affect the Buyer's statutory rights where the Buyer is a consumer.**