

TERMS AND CONDITIONS OF COMPUDAL LIMITED

The Customer's attention is in particular drawn to the provisions of condition 9.4.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Compudal: Compudal Limited (company number 05467560) whose registered office address is at Unit 1 Premier Park, Acheson Way, Manchester M17 1GA.

Customer: the person, firm or company who purchases the Products from Compudal.

Contract: any contract between Compudal and the Customer for the sale and purchase of the Products, incorporating these conditions.

Products: any products agreed in the Contract to be supplied to the Customer by Compudal (including any part or parts of them).

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.32.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all Compudal's sales and any variation to these conditions and any representations about the Products shall have no effect unless expressly agreed in writing and signed by a director of Compudal. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Compudal which is not set out in the Contract. Nothing in this condition shall exclude or limit Compudal's liability for fraudulent misrepresentation.

- 2.4 Each order or acceptance of a quotation for Products by the Customer from Compudal shall be deemed to be an offer by the Customer to buy Products subject to these conditions.
- 2.5 No order placed by the Customer shall be deemed to be accepted by Compudal until a written acknowledgement of order is issued by Compudal or (if earlier) Compudal delivers the Products to the Customer.
- 2.6 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.

3. ORDERS / SPECIFICATIONS

- 3.1 The quantity, description and specification of the Products shall be as set out in Compudal's quotation or acknowledgement of order.
- 3.2 All Products are subject to Compudal's standard tolerances for specifications and Compudal reserves the right to make substitutions and modifications in the specification of any Products provided that such substitutions or modifications do not materially affect the performance of the Products or the purposes for which they can be used.
- 3.3 The Customer is solely responsible for ensuring that the Products conform with its requirements and are fit for the purposes which it intends to use them.

4. DELIVERY

- 4.1 Delivery of the Products shall be made by the Customer collecting the Products from Compudal's place of business within seven days of Compudal giving the Customer notice that the Products are ready for delivery or, if some other place for delivery is agreed by Compudal, by Compudal delivering the Products to that place.
- 4.2 Any dates specified by Compudal for delivery of the Products are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.3 Subject to the other provisions of these conditions Compudal shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Products (even if caused by Compudal's negligence).
- 4.4 If for any reason the Customer fails to take delivery of any of the Products when they are ready for delivery, or if Compudal is unable to deliver the Products on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:

- (a) risk in the Products shall pass to the Customer (including for loss or damage caused by Compudal's negligence);
 - (b) the Products shall be deemed to have been delivered; and
 - (c) Compudal may store the Products until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.5 Where delivery of the Products shall be made by the Customer collecting the Products from Compudal's place of business, the Customer shall provide at the delivery point and at its expense adequate and appropriate equipment and manual labour for loading the Products.
- 4.6 Compudal may deliver the Products by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.7 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 4.8 Any liability of Compudal for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Products.
- 5. RISK/TITLE
- 5.1 The Products are at the risk of the Customer from the time of delivery.
- 5.2 Ownership of the Products shall not pass to the Customer until Compudal has received in full (in cash or cleared funds) all sums due to it in respect of:
 - (a) the Products; and
 - (b) all other sums which are or which become due to Compudal from the Customer on any account.
- 5.3 Until ownership of the Products has passed to the Customer, the Customer shall:
 - (a) hold the Products on a fiduciary basis as Compudal's bailee;
 - (b) store the Products (at no cost to Compudal) separately from all other Products of the Customer or any third party in such a way that they remain readily identifiable as Compudal's property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
 - (d) maintain the Products in satisfactory condition and keep them insured on Compudal's behalf for their full price against all risks to the reasonable satisfaction of Compudal.

- 5.4 The Customer may resell the Products before ownership has passed to it solely on the following conditions:
- (a) any sale shall be effected in the ordinary course of the Customer's business at full market value; and
 - (b) any such sale shall be a sale of Compudal's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.
- 5.5 The Customer's right to possession of the Products shall terminate immediately if:
- (a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
 - (b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between Compudal and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade.
- 5.6 Compudal shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from Compudal.
- 5.7 The Customer grants Compudal, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 5.8 Where Compudal is unable to determine whether any Products are the Products in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all Products of the kind sold by Compudal to the Customer in the order in which they were invoiced to the Customer.

5.9 On termination of the Contract, howsoever caused, Compudal's (but not the Customer's) rights contained in this condition 5 shall remain in effect.

6. PRICE

6.1 The price for the Products shall be the price quoted by Compudal.

6.2 Except as otherwise stated in Compudal's quotation, all prices are given by Compudal on an ex works basis, and where Compudal agrees to deliver the Products otherwise than at its place of business, the Customer shall be liable to pay Compudal's charges for transport, loading, unloading, packaging and insurance.

6.3 Compudal reserves the right at any time before delivery to adjust the price to reflect any increase in the cost to Compudal of materials, labour, equipment or operation.

6.4 The price for the Products shall be exclusive of any value added tax.

7. PAYMENT

7.1 Unless otherwise agreed by Compudal in writing, payment of the price for the Products is due within 30 days of the date of Compudal's invoice.

7.2 Time for payment shall be of the essence.

7.3 No payment shall be deemed to have been received until Compudal has received cleared funds.

7.4 All payments payable to Compudal under the Contract shall become due immediately on its termination despite any other provision.

7.5 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by Compudal to the Customer.

7.6 If the Customer fails to pay Compudal any sum due pursuant to the Contract, Compudal shall be entitled to (without prejudice to any other right or remedy):

(a) charge the Customer interest on such sum from the due date for payment at the annual rate of 2% above the base lending rate from time to time of Barclays Bank Plc, accruing on a daily basis until payment is made, whether before or after any judgment;

(b) cancel the Contract or suspend any further deliveries to the Customer.

7.7 Compudal reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

8. DEFECTIVE OR INCORRECT PRODUCTS

- 8.1 Compudal shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to Compudal by the manufacturer of the Products.
- 8.2 Compudal shall not be liable for any claim by the Customer which is based on any defect in the quality or condition of the Products or the Products being incorrect unless:
- (a) where the Products are delivered by a third party carrier, the Customer complies with all notification requirements to the carrier in accordance with the contract of carriage upon delivery and notifies Compudal within 2 days of the date of delivery;
 - (b) subject to 8.2(a) above, the Customer notifies Compudal within 7 days of the date of delivery; and
 - (c) the Customer returns such Products to Compudal's place of business unmarked in original packaging and condition (without any removal of manufacturer labels or stickers affixed to packaging) and within 10 days of being provided with an RMA number by Compudal.
- 8.3 Compudal shall not be liable for any claim which is based on any defect in the quality or condition of the Products or the Products being incorrect if:
- (a) the Customer makes any further use of such Products after giving such notice; or
 - (b) the defect arises because the Customer failed to follow Compudal's or the manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good practice; or
 - (c) the Customer alters or repairs such Products without the written consent of Compudal.
- 8.4 Subject to clauses 8.2 and 8.3, if Compudal accepts liability in respect of any claim which is based on any defect in the quality or condition of the Products or the Products being incorrect, Compudal shall at its option repair or replace such Products (or the defective part) or refund the price of such Products at the pro rata Contract rate.
- 8.5 If Compudal complies with condition 8.4 it shall have no further liability relating to any claim which is based on any defect in the quality or conditions of such Products or such Products being incorrect.

9. LIMITATION OF LIABILITY

9.1 Subject to conditions 4 and 9, the following provisions set out the entire financial liability of Compudal (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of these conditions;
- (b) any use made or resale by the Customer of any of the Products, or of any product incorporating any of the Products; and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

9.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

9.3 Nothing in these conditions excludes or limits the liability of Compudal:

- (a) for death or personal injury caused by Compudal's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for Compudal to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.

9.4 Subject to condition 9.2 and condition 9.3:

- (a) Compudal's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- (b) Compudal shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract..

10. ASSIGNMENT

10.1 Compudal may assign the Contract or any part of it to any person, firm or company.

10.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of Compudal.

11. FORCE MAJEURE

Compudal reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Products ordered by the Customer (without liability to the

Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Compudal including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

12. GENERAL

- 12.1 Each right or remedy of Compudal under the Contract is without prejudice to any other right or remedy of Compudal whether under the Contract or not.
- 12.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 12.3 Failure or delay by Compudal in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 12.4 Any waiver by Compudal of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 12.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 12.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

13. COMMUNICATIONS

- 13.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- (a) (in case of communications to Compudal) to its registered office or such changed address as shall be notified to the Customer by Compudal; or
 - (b) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to Compudal by the Customer.

13.2 Communications shall be deemed to have been received:

- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.