

eSheet Ltd - Terms and Conditions of Sale

a) eSheet Limited. Conditions of Sale

By ordering any goods from eSheet Limited (the "Seller"), the person(s), firm or company from whom an order to supply goods is received by the Seller (the "Buyer") will be deemed to accept that these Conditions take precedence over any other conditions contained on or in any letter, order form, acceptance form, receipt or the like received by the Seller in connection with the goods so ordered and that no such other conditions will form part of the contract between the Seller and the Buyer (the "Contract"), unless specifically agreed in writing. These Conditions apply to all the Seller's sales of goods, and the Buyer and Seller agree that any variation of these Conditions and any representations about the goods shall have no effect unless expressly agreed in writing.

Where the goods and services 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.

1 QUOTATIONS

All quotations and tenders are given by the Seller on condition that the Seller shall not be bound until it has communicated its written acceptance of the Buyer's order, or (if earlier) the Seller delivers the goods to the Buyer.

2 COST VARIATION

2.1 Except where a price is stated to be "fixed" by the Seller on its written acceptance of the Buyer's order any price quoted by the Seller or comprised in the order or Contract is provisional only and the actual price to be paid by the Buyer shall be the Seller's price ruling at the date of despatch.

2.2 All prices quoted or accepted are exclusive of Value Added Tax unless stated otherwise.

3 PAYMENT

3.1 Standard seller's payment terms are "Payment before Delivery". If extended terms have been granted in writing then unless a specific date of payment has been agreed in writing, the buyer must make all the funds available to the seller within 7 days of delivery. The Buyer shall make all payments due without deduction, whether by way of set-off counterclaim, discount or otherwise. If terms of payment are not complied with the Seller shall have the right to charge interest at the rate of 2 % for every month or part of any month between the due date of payment and final settlement. The Seller reserves the right to claim interest and fixed sum compensation under the Late Payment of Commercial Debts (Interest) Act 1998.

4 BUYER'S DEFAULT AND SELLER'S REMEDIES

4.1 Each right or remedy of the Seller under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

4.2 No forbearance or indulgence by the Seller whether in respect of these Conditions or otherwise shall in any way affect or prejudice the rights of the Seller against the Buyer or be taken as a waiver of any of these Conditions.

4.3 If any of the events specified in sub-clause 4.4 below occurs, the Seller may (without prejudice to any other rights against the Buyer), by giving the Buyer written notice: treat the unpaid purchase price of all goods and services delivered by the Seller to the Buyer as being immediately due and payable; and/or

4.3.2 Suspend delivery of any such goods and services ordered by the Buyer; and/or

4.3.3 Treat any or all Contracts between the Buyer and the Seller as being repudiated and claim damages (including, without limitation, the right to sue for the price of any undelivered goods specifically manufactured for the Buyer).

4.4 The Seller's rights under Clause 4.3 will arise:

4.4.1 If the Buyer fails to pay any amount when it is due under any Contract with the Seller.

4.4.2 If the Buyer is in breach of any Contract between the Buyer and the Seller; or

4.4.3 if the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act 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 a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Seller and sub-clauses 7.3 and 7.4 shall apply mutatis mutandis to those other products in place of the goods. Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

4.4.4 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade.

5 DELIVERY & COMPLAINTS

5.1 If no exact time for delivery is specified in a Contract, the Buyer shall be bound to accept the goods when they are ready for delivery by the Seller. If the Buyer does not properly accept delivery, the goods will be deemed to have been delivered, risk in the goods will pass to the Buyer (including for loss or damage caused by the Seller's negligence), and the Seller may store the goods until delivery, whereupon the Buyer will be liable for all related costs and expenses (including storage and insurance).

5.2 The risk in goods shall pass to the Buyer when the goods are delivered to the Buyer, or in accordance with his instruction.

5.3 The quantity of any consignment of goods as recorded by the Seller upon dispatch from the Seller's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary. Any complaint of short delivery or of damaged goods in transit must be notified within 24 hours of receipt of goods and confirmed in writing at that time by the Buyer to the Seller and any complaint of failure to deliver goods invoiced must be so notified within 10 days of the date of the invoice. The Seller's liability for non-delivery of goods shall be limited to replacing the goods within a reasonable time or issuing a credit note at the appropriate rate.

5.4 Each delivery will constitute a separate Contract and any failure or defect in any one delivery will not vitiate the Contract as to the remaining deliveries.

5.5 Any time or date for delivery named by the Seller is an estimate only and time for delivery shall not be made of the essence by notice. The Seller shall not accept liability for any loss (including loss of profit), costs; damages, charges or expenses caused directly or indirectly by any delay in the delivery of the goods (even if caused by the Seller's negligence). Demurrage is charged at the minimum of £35.00 per half hour. If the delivery vehicle or personnel cannot gain adequate access to make the delivery the goods will not be delivered and this will constitute a failure to deliver as if the Buyer was not available to accept delivery.

5.6 On delivery the buyer must inspect the goods immediately and notify the courier by signing the delivery note as "damaged." even if the delivered goods are not damaged. If damaged then

the buyer must refuse to accept the goods from the carrier and ask the carrier to remove the goods. This is done to ensure we can get the goods returned free of charge. Goods signed "uninspected" will be regarded as "accepted" without fault. The buyer must then also advise the seller by email within 2 hours stating that the goods were received damaged or stating how the goods were unacceptable against the agreed purchase specification. If this does not occur there will be a charge for any returned goods. If the goods are within the seller's specification then a charge will be made for collection and return. This applies to UK and overseas deliveries.

6 OWNERSHIP

6.1 The Seller and the Buyer expressly agree that legal ownership of the goods shall not pass to the Buyer until the Seller has received in full (in cash or cleared funds) all sums due to it (including any interest charged) in respect of:

6.1.1 The goods; and

6.1.2 All other sums which are or which become due to the Seller from the Buyer on any account.

6.2 Until ownership of the goods has passed to the Buyer, the Buyer must:

6.2.1 Hold the goods on a fiduciary basis as the Seller's bailee;

6.2.2 Store the goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;

6.2.3 Not destroy, deface or obscure any identifying mark or packaging on or relating to the goods;

6.2.4 Maintain the goods in satisfactory condition insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller; and

6.2.5 Hold the proceeds of the insurance referred to in Condition 6.2.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

6.3 The Seller may recover the goods (excluding any goods ownership of which had already passed to the Buyer) from the Buyer at any time and for that purpose the Buyer grants the Seller, its servants and agents an irrevocable licence at any time to enter upon any land or buildings upon which the goods are situated in order to inspect or recover them. If the Seller resells any of the goods so recovered, the Seller shall give the Buyer credit for any sum received by the Seller in excess of the sums due from the Buyer to the Seller.

6.4 The Buyer may dispose of the goods before ownership has passed to it in the ordinary course of its business at full market value as principal (but any warranties, conditions, or representations given or made by the Buyer to any third party shall not be binding on the Seller who shall be indemnified by the Buyer with respect thereto) and may pass good title in the goods to a third party being a bona fide purchaser for value without notice of the Seller's rights.

6.5 If the Buyer incorporates the goods into other products (with the addition of its goods or those of others) or uses such goods as material for other products (with or without such additions) legal ownership of those other products is upon such incorporation or use and by that event transferred to the Seller and sub-clauses 7.3 and 7.4 shall apply mutatis mutandis to those other products in place of the goods.⁷ WARRANTIES

7.1 The Seller warrants that the goods are of satisfactory quality and that they comply with any specific description or specification supplied by the Seller to the Buyer in writing within the tolerances agreed.

7.2 The Seller gives no warranty that the goods are suitable for any particular purpose or for use under any specific conditions, unless the Buyer has given full written details of the purpose or

conditions and the Seller has expressly warranted the goods' suitability in writing. It is in all cases the responsibility of the Buyer to satisfy itself that there is no apparent defect, irregularity or unevenness in the goods, or incompatibility of the goods with any machinery which may cause damage to any part or machinery used to print on or otherwise process the goods, and the Seller gives no warranty that the goods will not cause any such damage. If the Buyer alleges any goods fail to comply with the warranty given, it shall give written notice to the Seller within 3 days of the time when the Buyer discovers or ought to have discovered the defect. If agreed in writing in advance between the Buyer and Seller, the Buyer shall then return the goods to the Seller. After it has had a reasonable time to investigate and examine the goods, the Seller may:

7.3.1 Replace the goods, or

7.3.2 Accept the return of the goods and credit the Buyer with the purchase price; or

7.3.3 Make the Buyer an allowance representing the difference between the value of the goods at the time of the complaint by the Buyer and the value they would have had if they had been in accordance with the Contract, providing the Buyer pays the balance not in dispute according to normal terms.

7.4 If the Seller complies with Condition 7.3, it shall have no further liability for a breach of any of the warranties in respect of the goods.

7.5 Damaged or faulty goods in the UK the supplier will attempt promptly to replace the goods. Any goods broken or faulty goods must be retained for optional return and repacked to the degree of packing suitable for return. If this is not practical on inspection of acceptable evidence, such as a picture, a credit will be issued or a refund will be made when the evidence has been investigated and the complaint approved by the supplier. Overseas the customer must return the goods for inspection.

7.6 No claim can be entertained after the goods or any part thereof have been processed in any way or if the Buyer continues to use the goods after giving notice to the Seller, or if the defect arises because the Buyer failed to follow the Seller's instructions or (if there are none) good trade practice.

8 VALUE-ADDED CONSULTANCY

8.1 From time to time the Seller provides value-added consultancy recommending the best use of its products to meet the Buyer's needs. Such information is ancillary to the Seller's supply of goods and is given for guidance only.

8.2 The Seller gives no warranty as to the accuracy or completeness of such recommendations unless:

8.2.1 The Buyer has given full details of the purpose or conditions for which the recommendations are required; and

8.2.3 The recommendations are given (or confirmed) by the seller, in writing.

8.3 If the provisions of clause 8.2 are satisfied and the Buyer alleges that any recommendations given by the Seller are incomplete or inaccurate, it shall submit a written report to the Seller within one month.

9 LIMITATION OF THE SELLER'S LIABILITY

9.1 Except as otherwise expressly mentioned in these Conditions, the following provisions of this Condition 10 set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of: 9.1.1 any breach of these Conditions; and 9.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with any Contract between the Seller and Buyer.

9.2 Except as otherwise provided in these Conditions 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 the Seller for death or personal injury caused by the Seller's negligence (or that of its agents or employees) or for fraudulent misrepresentation.

9.4 Subject to Conditions 9.2 and 9.3 the Seller shall not be liable to the Buyer for any loss or damage (including any loss or damage to parts or machinery caused by any defect, irregularity or unevenness in the goods and including any inaccuracy or incompleteness of any recommendation made by the Seller on the use of its goods), whether direct, indirect or consequential (including for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

9.5 Subject to Conditions 9.3 and 9.4, the Seller's total liability arising from or in connection with the Contract and in relation to anything which the Seller may have done or not done in connection with the Contract (and whether the liability arises because of breach of contract, negligence or for any other reason) shall be limited to an amount equal to 125% of the total amount paid by the Buyer under the Contract.

9.6 AVAILABILITY: Stocks change rapidly & we will only reserve raw materials against payment.

9.7 DELIVERY TIMES: For most orders, from the date of despatch, delivery is normally 1 day dependant on your location. Remote areas may require 3 - 4 days. If there is no one in, the carrier will take the goods away unless there is an alternative instruction acceptable to him. If there is no one in, someone will then contact you (or the driver may leave a card) to arrange another delivery attempt but after that, officially, it returns to the depot and you will have to pay for another delivery. Normally carriers try and ensure that they hold it at their local depot but that is not something they are contracted to do. Carriers are not obliged to ring you to advise they are delivering and will not normally phone you as the driver often does not have a Company mobile phone. The carrier will normally require a signature on delivery so make sure the goods are acceptable as it is difficult to prove otherwise later if you have signed to say they were acceptable. We stress that it is best to sign for the goods as uninspected if you have not checked they meet your specification as mistakes can happen and we are not liable if you do not check them on arrival and advise us within 3 days although we will try and assist towards correcting the problem. If you are unable to be in and instead you provide a SAFEPOINT once it's at the safe point it's your responsibility as if you had signed for the goods as acceptable. If carriers will not accept a SAFEPOINT they will take the goods away and you will be re-contacted.

9.8 QUOTES: Quotes are valid for 1 month and 2 weeks if over £200. This is to cover the remote possibility that the price of the raw material will zoom up. If you have not advised a delivery point, we assume for quote purposes that your address is on the UK Mainland and if it is not, we reserve the right to amend the transport cost later.

9.9 DELIVERIES & SUITABILITY for PURPOSE: Materials are supplied without guarantee of suitability for purpose. They can be supplied against an agreed specification but are not so supplied without prior written agreement by eSheet Ltd. If there have been long complex discussions and correspondence we ask you to summarise the specification with your final order so that nothing is missed out. Dimensions, colours and finishes are supplied as close as possible to what is agreed but variations can occur in all these elements and other specifications of sheets or materials and we cannot accept liability for these variations if they occur. When supplied, it is your responsibility to ensure that they comply with the details on the written order you sent us. Please do not sign a delivery note as acceptable unless you have checked it fully complies with your order. (see 9.7 above). If the driver is unhappy to wait then either ask him to be patient or sign the Delivery Note "Unchecked - driver would not wait". If there is something wrong please inform esheet Ltd in writing within 3 days or we cannot replace missing or damaged goods

free of charge. We will always try to sort out any problems reasonably.

9.9.1 SIZES: All lengths and width measurements are quoted $\pm 1\text{mm}$ tolerance except where polished and the limit is $\pm 2\text{mm}$. Tubes and rods are only guaranteed to have the shape required if treated with respect for the plastics malleability. If with prior written agreement materials being cut by laser or CNC router can have a tolerance of $\pm 0.5\text{mm}$ or possibly lower. If that is no use then let us know and will try & comply with your needs. 9.9.2 SUPPLIERS ADVICE: Any advice is given in good faith. We will try our best to help but you should not rely solely on our advice.

FORCE MAJEURE, ETC

10.1 The Seller reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency, 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.

11 GOVERNING LAW

11.1 The Law of England shall govern the validity construction and performance of any contract to which these Conditions apply, and the Buyer and Seller submit to the exclusive jurisdiction of the English courts.

12 GENERAL

12.1 The Buyer acknowledges that the Seller may make a search with a credit reference agency and keep a record of that search on computer or in manual records and may share that information with other businesses. The Seller may also make enquiries about the principal directors with a credit reference agency.

12.2 The Buyer and Seller do not intend that any term of the Contract between them will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

12.3 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 or such provision shall continue in full force and effect.

12.4 All communications between the parties about the Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission (and not by e-mail):

12.4.1 in case of communications to the Seller or to its registered office or such changed address as shall be notified to the Buyer by the Seller; or

12.4.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Seller by the Buyer.

12.5 Communications shall be deemed to have been received:

12.5.1 if sent by pre-paid adequate first class post, 2 days (excluding Saturdays & Sundays and bank and public holidays within the UK) after posting (exclusive of the day of posting) unless during relevant industrial action.;

12.5.2 If delivered by hand, on the day of delivery.

12.5.3 If sent by facsimile transmission on a working day prior to 4.00p.m., at the time of transmission and otherwise on the next working day.

Registered Office & Sales Office - No visitors without appointment please.

eSheet Limited
2 Woodgate Park
Wisbech
Cambs PE13 1LX

Last updated 3rd July 12