

# VOHKUS LIMITED STANDARD TERMS AND CONDITIONS OF SALE

## 1. DEFINITIONS

- 1.1 "Customer" means the person(s), firm, business or company who purchases the Products from Vohkus.
- 1.2 "Contract" means any contract between Vohkus and the Customer for the sale and purchase of Products arising pursuant to the delivery of an Order Acknowledgement by Vohkus to the Customer incorporating these Standard Terms and Conditions and any applicable Special conditions.
- 1.3 "Force Majeure" means any act or circumstances beyond Vohkus' reasonable control.
- 1.4 "Order Acknowledgement" means Vohkus' written acceptance of order in the form of an order acknowledgement, whether delivered by email or otherwise, and containing any Special Conditions.
- 1.5 "Products" means goods or services agreed in the Contract to be supplied to the Customer by Vohkus.
- 1.6 "Special Conditions" means all specific conditions relating to the supply of Products to the Customer (including, but not limited to, descriptions, prices, place and date of supply) contained in or referred to in the Order Acknowledgement. If there is a conflict between these Standard Terms and Conditions and the Special Conditions then the Special Conditions shall prevail.
- 1.7 "Third Party Software" means all software owned or licensed to the Customer by a third party owner and which comprises part of the Products.
- 1.8 "Vohkus" means Vohkus Ltd whose principal place of business is situated at 5A Herald Road, Hedge End, Southampton, Hampshire SO30 2JW.

## 2. QUOTATIONS

- 2.1 Any quotation made by Vohkus is subject to Vohkus obtaining satisfactory credit and payment references in respect of the Customer. A quotation shall, unless otherwise stated therein, remain open for acceptance for 14 days only after which time it shall lapse and cease to be binding on Vohkus. Every quotation is subject to: revision by Vohkus for errors and omissions; increase in price in accordance with condition 3.1 below and: the provision of Products of a similar or equivalent nature as may be agreed with the Customer.

## 3. PRICES

- 3.1 Prices are based on current costs and charges for the Products at the date of quotation or at such earlier date as may be specified by Vohkus. Prices may be increased by Vohkus to take into account any change in such costs or charges for Products. Confirmed purchase orders shall be invoiced at the price in effect at the time of Vohkus' acceptance of the order. Unless otherwise agreed prices exclude delivery charges, any taxes including VAT, duty, levy or credit card payment fee.

## 4. DELIVERY

- 4.1 Delivery of the Products shall be deemed to take place when they are despatched by or on behalf of Vohkus. Risk of loss or damage to Products shall pass to the Customer at the time of delivery.
- 4.2 Any delivery date given by Vohkus for delivery is given as an estimate only and Vohkus shall in no event be liable for delays in delivery. Vohkus will use all reasonable endeavours to despatch the Products for next working day delivery after receipt of the order. Time shall not be of the essence for delivery of any order between Vohkus and the Customer.
- 4.3 Vohkus is not responsible for delay or failure to deliver due to causes beyond its reasonable control, including but not limited to fire, flood, act of God or insolvency of sub-contractors or suppliers or inability to obtain products, licenses or services from third party suppliers.

## 5. DELIVERY CHARGES

- 5.1 All transportation, packing and transit insurance costs will be payable by the Customer in addition to the price for the Products unless otherwise agreed with Vohkus.

## 6. TRANSPORTATION

- 6.1 Vohkus shall, in the absence of agreement to the contrary, be entitled to use any method or means of transportation.
- 6.2 Vohkus may despatch the Products in multiple shipments.
- 6.3 Risk of the loss of the Products shall pass to the Customer on delivery.

## 7. STORAGE

- 7.1 If Vohkus does not receive from the Customer sufficient instructions to enable it to despatch the Products within 7 days after notifying the Customer that the Products are ready for despatch Vohkus shall be entitled to arrange storage of the Products, either at its own premises or elsewhere, on the Customer's behalf and all charges for storage, insurance, transport or demurrage (including Vohkus' charges for storage and incidental expenses) shall be payable by the Customer. The Products shall be deemed to have been despatched and the risk therein shall be deemed to have passed to the Customer on the date of despatch.

## 8. CANCELLATION OF ORDERS

- 8.1 In the event of any cancellation by the Customer of all or part of an order less than 72 hours before the estimated delivery date the Customer shall, if so required by Vohkus, pay to Vohkus a cancellation charge equal to 25% of the order value with a minimum charge of £25.
- 8.2 Orders for Products specifically made for the Customer are not able to be cancelled.

## 9. RETURNS

- 9.1 If the Customer rejects non-defective Products the Customer shall, at the discretion of Vohkus, pay a re-stocking charge equal to 25% of the order value with a minimum charge of £25.
- 9.2 Returns will only be accepted if: (a) prior written approval has been

obtained from Vohkus; (b) the request for the return is made within 14 days of the receipt of the Products; (c) the Products are properly packed to preserve their condition whilst in transit and; (d) the Products are in the manufacturer's original packing, are in a saleable condition and any software packages or seals have not been opened.

## 10. PAYMENT

- 10.1 Unless specifically agreed in writing all amounts owing by the Customer to Vohkus shall be paid by the end of the month following the date of the invoice.
- 10.2 The Customer shall make no deduction of any type from such payments unless it has a valid court order requiring an amount equal to such deduction to be paid by Vohkus to the Customer.
- 10.3 Vohkus may invoice the Customer at any time after the Products have been despatched and Vohkus reserves the right to invoice the Customer for Products delivered in instalments after each such instalment has been despatched.
- 10.4 Time for payment shall be of the essence and failure of the Customer to make full payment by the due date shall enable Vohkus, without prejudice to any other right or remedy available to it, to suspend or cancel any further deliveries to the Customer and to suspend or cancel any order then existing between Vohkus and the Customer.
- 10.5 Vohkus shall be entitled to charge interest on any invoiced amount which is not paid by the Customer on the due date at a rate of 4% p.m. above the base rate of Lloyds TSB Bank plc.
- 10.6 The Customer must notify Vohkus in writing of any errors within the invoice within 7 days of the date of the invoice.
- 10.7 The Customer's credit limit may be amended or withdrawn without prior notice.
- 10.8 The Products are at the risk of the Customer from the time of delivery.
- 10.9 Ownership of the Products shall not pass to the Customer until Vohkus has received in full (in cash or cleared funds) all sums due to it in respect of the Products and all other sums which are or which become due to Vohkus from the Customer on any account.
- 10.10 Whilst ownership of the Products remain with Vohkus, the Customer shall:
  - 10.10.1 hold the Products on a fiduciary basis as Vohkus' bailee;
  - 10.10.2 store the Products (at no cost to Vohkus) so that they are readily identifiable as the property of Vohkus;
  - 10.10.3 not destroy, mark or obscure any identifying label or packaging on or relating to the Products;
  - 10.10.4 maintain the Products in satisfactory condition insured on Vohkus' behalf for their full price against all risks to the reasonable satisfaction of Vohkus. On request the Customer shall produce the policy of insurance to Vohkus; and
  - 10.10.5 hold the proceeds of the insurance referred to in Condition 10.10.4 on trust for Vohkus and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 10.11 The Customer may resell the Products in the ordinary course of business at full market value and the Customer shall hold such part of the proceeds of sale as represent the amount owed by it to Vohkus on behalf of Vohkus and the customer shall account to Vohkus accordingly.
- 10.12 The Customer's right to possession of the Products shall terminate immediately if it becomes subject to any of the insolvency circumstances identified in Conditions 13.3 to 13.8.
- 10.13 Vohkus shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from Vohkus.
- 10.14 The Customer grants Vohkus, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored or used in order to inspect them or, where the Customer's right to possession has terminated, to recover them.

## 11. WARRANTY

- 11.1 Any warranty offered by the Product manufacturer will be passed onto the Customer.
- 11.2 Vohkus does not warrant that the Product purchased by the Customer is compatible with the Customer's own hardware or software. The Customer is advised to contact the manufacturers direct to ascertain compatibility of hardware and software.
- 11.3 Vohkus' sole obligation under this Condition 11 shall be at its option to repair or replace the Products or any part thereof. Vohkus' liability under this Condition 11 shall be in lieu of any warranty or condition, express or implied, whether by statute or otherwise.
- 11.4 The Customer shall carefully inspect the Products on delivery and Vohkus shall not be liable for the delivery of damaged or faulty Products unless written notice is given to Vohkus within 7 days of the date upon which the Products were delivered or, in respect of latent defects not apparent on immediate inspection, within 7 days of the date upon which the defect was discovered. Time shall be of the essence in respect of the notification of all claims.
- 11.5 Vohkus reserves the right to require that all damaged or faulty Products be returned to Vohkus. In that event Vohkus shall pay the cost of carriage by normal means on returned products and the repaired or replacement Products will be delivered free of charge by Vohkus to the location from which the faulty Products were despatched to it.

## 12. LIMITATION OF LIABILITY

- 12.1 Subject to Condition 11, the following provisions set out the entire financial liability of Vohkus (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of any breach of these Conditions and any representation, statement or tortious act or omission, including negligence arising under

or in connection with the Contract.

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

12.3 Nothing in these Conditions excludes or limits the liability of Vohkus for death or personal injury caused by Vohkus' negligence or fraudulent representation.

12.4 Subject to Conditions 12.2 and 12.3:

12.4.1 Vohkus' total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Contract price; and

12.4.2 Vohkus shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (as of costs) which arise out of or in connection with the Contract.

## 13. TERMINATION

- 13.1 Without prejudice to any other rights to which it may be entitled under the Contract Vohkus may give notice in writing to the Customer terminating the Contract with immediate effect if:
  - 13.2 The Customer commits a material breach of any of the terms of the Contract and, if such breach is capable of remedy, fails to remedy that breach to the reasonable satisfaction of Vohkus within 30 days of being notified of the breach;
  - 13.3 An order is made or a resolution is passed for the liquidation, winding up or dissolution of the Customer (otherwise than for the purpose of reconstruction or amalgamation);
  - 13.4 An encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Customer;
  - 13.5 The Customer enters into a moratorium under the provisions of the Insolvency Act 2000;
  - 13.6 The Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order;
  - 13.7 The Customer otherwise becomes subject to the insolvency laws in any jurisdiction; or
  - 13.8 The Customer ceases, or threatens to cease, to carry on business.

## 14. FORCE MAJEURE

- 14.1 Neither party will be liable for any delay in performing or failure to perform its obligations under this agreement due to any cause outside its reasonable control. Such delay or failure will not constitute a breach of this agreement and the time for performance of the affected obligation will be extended by such period as is reasonable.

## 15. ASSIGNMENT

- 15.1 The Customer cannot assign any Contract without the prior written consent of Vohkus.
- 15.2 Vohkus may without consent assign or sub-contract all or any of its rights and obligations under a Contract.

## 16. NOTICES

- 16.1 All notices which are required to be given under this agreement will be in writing and will be served on the other at its principal place of business.
- 16.2 All such notices may be delivered personally by first class prepaid letter or electronic mail or facsimile transmission and will be deemed to have been received:
  - 16.3 By hand delivery - at the time of delivery.
  - 16.4 By first class post - 48 hours after the date of mailing.
  - 16.5 By facsimile or electronic mail transmission- immediately on transmission provided a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next business day.

## 17. WAIVER AND SEVERANCE

- 17.1 Any indulgence granted by Vohkus to the Customer and any failure by Vohkus to insist upon strict performance of these Conditions shall not be deemed a waiver of any of Vohkus' rights or remedies nor be deemed a waiver of any subsequent default by the Customer.
- 17.2 The invalidity, illegality or unreasonableness in whole or in part of any of these Conditions shall not affect the validity of the remainder of such Conditions or these Conditions.

## 18. INTERPRETATION

- 18.1 Headings have been included for the convenience only and will not be used in construing any provision in the agreement.

## 19. ENTIRE AGREEMENT

- 19.1 This Contract is the complete and exclusive statement of the Contract between the parties relating to the subject matter of the Contract and supercedes all previous communications, representations and arrangements written or oral. The Customer acknowledges that no reliance is placed on any representation made but not embodied in this Contract. The printed terms of conditions of any purchase order or other correspondence and documents of the Customer issued in connection to this Contract will not apply unless expressly accepted in writing by Vohkus.
- 19.2 Except as otherwise permitted by this Contract, no change to its terms will be effective unless it is in writing and signed by persons authorised on behalf of both parties.

## 20. GOVERNING LAW

- 20.1 These terms and conditions shall be governed by the construed in accordance to the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.