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## Conditions of Sale and Terms of Business

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VAT Registration No. GB 869 1148 94  
Company Registration No. 5535202

# Conditions of Sale and Terms of Business

## Docstor Limited

### Definitions

- (a) The Seller means Docstor Limited (registered in England & Wales under number 5535202).
- (b) The Buyer means the person named overleaf.
- (c) Goods means the Goods (including any instalment of the Goods or any part of them) which the Seller is to supply in accordance with these Conditions.
- (d) Conditions means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.
- (e) Contract means the Contract for the purchase and sale of the Goods.
- (f) Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- (g) The headings in these Conditions are for convenience only and shall not affect their interpretation.
- (h) For the purpose of these Conditions payment shall mean the receipt of cleared funds by Seller.

### 1. Previous Communications

These Conditions apply to all contractual relations between the Seller and the Buyer unless different terms are agreed in writing. All previous correspondence, writings, telegrams or verbal communications are to be regarded as superseded and no longer forming part of the Contract. All orders for Goods shall be deemed to be an offer by the Buyer to purchase the Goods pursuant to these Conditions. No modification to these Conditions shall be effective by acknowledgement or receipt of the Buyer's purchase order or terms containing different conditions. Acceptance of either partial or completed delivery from the Seller or payment by Buyer shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.

### 2. Intellectual Property

- 2.1 Copyright  
The copyright in all computer programs and the paperwork connected therewith supplied under the Contract shall belong to the Seller.
- 2.2 Trademarks  
The Seller's trademarks and logos are protected by the laws in force and by international conventions.
- 2.3 Patents  
No right or licence is granted to the Buyer under any patent or other intellectual property right, except the right to use or resell the Goods.
- 2.4 The Buyer warrants that the designs and specifications (if any) supplied by it to the Seller will not involve the infringement of any patent, registered design or other industrial property right in the manufacture and sale of the Goods.
- 2.5 In the event that the Goods are used for any purpose other than the purposes for which Goods of the specification in question are normally used, the Seller shall have no responsibility for any infringement of any British or foreign patent, registered design or other industrial property rights which arise as a result of the use of the Goods for the particular purpose.

### 3. Price Variation

- 3.1 The Contract price is based on the cost of materials, transport, freight and insurance, labour charges, lodging allowances, import duties and overhead expenses ruling at the date of delivery. All prices will be those ruling at the date of delivery. The Buyer shall bear the cost of special transport arrangements requested by him including any demurrage incurred as a result of Buyer refusing or delaying acceptance of Goods beyond the delivery date indicated by the Seller.
- 3.2 Quotations are given and orders are accepted by the Seller on the understanding that the prices charged will be those prevailing at the date of delivery, unless specifically agreed in writing to the contrary by the Seller. The service price lists do not constitute an offer to sell. Orders either given direct to the Seller or given to its representatives either verbally or in writing will not constitute a Contract unless accepted by the Seller either in writing or by despatch of the Goods involved. Orders for items not available at the time of order will be despatched immediately when stocks are available unless prior cancellation in writing is given by the Seller.

### 4. Goods Supplied for Resale

Goods supplied by the Seller must remain in their original packaging and none of the identification markings are to be erased, covered or defaced unless specific permission is given in writing by the Seller.

### 5. Acceptance of Delivery

The Buyer shall accept delivery of the Goods within a period of [14 days] of being notified by the Seller that the same is/are available for delivery. If the Buyer shall fail to accept delivery as aforesaid the Seller shall be entitled to charge interest to the Buyer at the rate of 4 per cent per annum above the Barclays Bank base rate for the time being on the whole of the price which remains unpaid.

If Goods forming any portion of an order is/are not taken by the Buyer in accordance with the terms of delivery specified by the Seller, the sale thereof may be postponed or cancelled at the Seller's option without tender or notice to the Buyer. Such postponement or cancellation shall not affect any remaining portion of the order.

### 6. Delivery and Passing of Risk

The property in the Goods delivered by the Seller will remain in title with the Seller until full payment has been received by the Seller. The Buyer must store the Goods in a manner so that they can be readily identified as the property of the Seller

The risk in the Goods will pass to the Buyer on delivery at his premises when the Goods are delivered by the Seller's own transportation or the Seller's transport agents. The risk in the Goods will pass to the Buyer when the Goods leave the Seller's premises if the Buyer requires delivery by any method of transport other than the Seller's own transportation. The Incoterms (1990) shall apply to all export sales.

#### **7. Delay in Delivery or Completion**

Delay in delivery or, in the case of a Contract for delivery by instalments, delay in the delivery of an instalment, or delay in completion shall not give rise to any liability upon the Seller, whether or not any time or date is given in this respect, unless a guarantee of delivery or completion has been given in writing by the Seller expressly stating that the Seller guarantees delivery or completion within a specified time. Time is not of the essence of the Contract and is not to be made so without the consent in writing from the Seller. In the event of inability for any reason to supply the total demand for the Goods ordered, the Seller may allocate the available supply among all purchasers or users (including the Seller and its affiliates) or make partial shipments, on such basis as it may deem fair or practical without liability for any failure of performance which may result therefrom.

#### **8. Payment**

Payment of invoices relating to Goods sold on credit is due to be paid and received by the Seller within 30 (thirty) days from the date of the invoice and the Seller reserves the right to withdraw credit facilities if these terms are not fulfilled by the Buyer. In these circumstances the Seller may, at its sole discretion, demand payment of all invoices whether due or not. Credit terms may not be varied unless specifically agreed in writing by the Seller. All accounts are payable to the Seller to the office designated on the Seller's invoice.

#### **9. Interest on Overdue Accounts**

The Seller reserves the right to charge interest on overdue accounts at a rate of 4% over and above Barclays Bank Plc base rate. This interest will be calculated on a daily basis from the day the invoice becomes due.

The Buyer shall not have the right to withhold payment or set-off in relation to any claim against the Seller unless this has been specifically agreed in writing by the Seller. Any verbal agreements which do not comply with these Conditions shall not be binding on the Seller unless they have been confirmed in writing and signed by both parties.

#### **10. Retention of Title**

10.1 The full legal ownership in the Goods (whether the legal, equitable or beneficial interest therein) shall not pass from the Seller until the Buyer shall have paid all sums due to the Seller under any contract between them.

10.2 Until such payment is made the Buyer shall possess all the Goods, the property in which is vested in the Seller by virtue of this Condition, on a fiduciary basis only and as bailee only for the Seller. The Buyer shall at his own cost, store such Goods so that they are clearly identified as belonging to the Seller and keep separate from those of Buyer and third parties.

10.3 While any monies are owed by the Buyer to the Seller under the relevant Contract the Buyer shall not

10.3.1 pledge, charge or assign to third parties the Goods or documents of title thereto or allow any lien to arise thereon;

10.3.2 process or mix the Goods with any other Goods or material; or

10.3.3 except as permitted by this Clause, deal with or dispose of the Goods or documents of title or any interest therein.

10.4 If before the Buyer shall have paid to the Seller all sums due to the Seller the Buyer shall commit any breach of any conditions under any contract between the Seller and the Buyer or have a receiver or administrative receiver appointed or shall pass a resolution for winding up or a court shall make an order to that effect or the Buyer shall be adjudged insolvent or bankrupt or be unable to pay his debts as they fall due or shall make any composition or arrangement with his creditors or if any payment to the Seller is overdue the Seller may (by agreement with the Buyer or, if the Buyer does not agree, by taking Court action) recover and resell the Goods and may enter upon any land or building upon which the Goods is/are situated for that purpose.

10.4 The Buyer has the right, as agent of the Seller, to sell for the account of the Seller any Goods the property in which is vested in the Seller by virtue of this Condition and to pass good title to the Goods to his buyer being a bona fide purchaser for value without notice of the Seller's rights. In such event the Buyer shall be under a fiduciary duty to retain in a separate account and to pay to the Seller the proceeds of such sale to the extent that any monies are owed by the Buyer to the Seller.

10.5 The Seller reserves the right to terminate the Buyer's power of sale by notice to Buyer if Buyer is in default for longer than 7 days in the payment of any sums due to the Seller for whatever reason.

10.6 Returnable product carriers or containers delivered but not sold hereunder are the property of the Seller and at the Seller's option the Buyer will either return them undamaged freight collect to the destination designated by the Seller or make them available at the Buyer's premises for collection by or on behalf of the Seller, in either case within the period specified by the Seller. Any deposit made by the Buyer on such product carriers or containers shall be forfeited in the event of failure to return them undamaged within the specified period. Where no deposit is required, the Buyer agrees to reimburse the Seller for the value, as shown on the face of the invoice, of any such product carriers or containers damaged or not returned within the specified period. The Seller's count and rejection of damaged product carriers or containers shall be accepted as final.

#### **11. Direct, Indirect or Consequential Loss or Damage**

Except as provided in Section 2 of the Unfair Contract Terms Act 1977 (liability for death or personal injury resulting from negligence), the Seller accepts no responsibility in any circumstances for any direct, indirect or consequential loss or damage however arising, which the Buyer may sustain in connection with Goods supplied under the Contract whether such Goods is/are of the Seller's own manufacture or not.

#### **12. Exclusions**

Save as provided by these Conditions and save for the Seller's implied undertakings as to title etc. contained in Section 12 of the Sale of Goods Act 1979, all conditions and warranties express or implied statutory or otherwise, and except as provided by these Conditions or by Section 2 of the Unfair Contract Terms Act 1977 (liability for death or personal injury resulting from negligence) all obligations and liabilities whatsoever of the Seller, whether in contract or in tort or otherwise, are excluded.

### **13. Technical Data**

The descriptions, technical specifications and illustrations contained in the Seller's catalogues, quotations, drawings, descriptive matter and advertisements are approximate only, are subject to change without notice, and are intended merely to give a general idea of the Goods described therein and do not form part of the Contract.

### **14. Limitation of Liability**

The responsibility of the Seller for defects in the Goods is limited to the replacement of Goods found defective or faulty in manufacture, labelling and packaging. Photographic materials sent for printing, copying or processing are accepted on the basis that the Seller's liability is limited to the replacement of their value at retail cost.

### **15. Suspension or Cancellation of Deliveries**

15.1 If the Buyer fails to pay the Seller on the due date any sums payable hereunder, or shall have a receiving order in bankruptcy made against him, or make any arrangement with his creditors, or being a body corporate shall have a receiver or administrative receiver appointed or if any order shall be made or any resolution passed for winding up the same, or there is a composition arranged with creditors whereby payments are temporarily suspended the Seller may, without prejudice to its other rights, either repudiate the Contract forthwith or suspend or cancel further deliveries and debit the Buyer with any loss sustained thereby. All monies due from the Buyer to the Seller for any Goods delivered at whatever time will become due for payment immediately.

15.2 If the Buyer cancels his order, the Seller shall be entitled to recover from him any loss sustained thereby.

### **16. Complaints and Returning of Goods**

16.1 The Buyer must inform the Seller as soon as reasonably practicable but no later than 10 days from the date of delivery in the event that the Goods delivered do not correspond to the delivery note or are damaged on delivery.

16.2 The Buyer must inform the Seller as soon as reasonably practicable in the event that there is a complaint concerning the quality of the Goods.

16.3 When registering a complaint under Clause 16.1 or 16.2 the Buyer must return a sample or evidence of the faulty product(s) to the Seller quoting the delivery note number. Claims will not be accepted unless these conditions are fulfilled.

16.4 Goods may be returned to the Seller only with the Seller's prior approval. The Seller shall then have the option of repairing or replacing the Goods or of granting the Buyer an appropriate price reduction.

### **17. Software**

17.1 The software supplied for the use of the Buyer remains the property of the Seller and the Buyer acquires no title to it whatsoever other than the right to use it in accordance with the Contract.

17.2 The Buyer may use the software only on the Goods specified by the Seller and on which it is first installed except that in the event of a malfunction in the Goods causing the software to become inoperable on it, the software may be used on other equipment specified by the Seller on a temporary basis during the period of such malfunction.

17.3 The Buyer may copy the software only for use in accordance with paragraph 17.2 above.

17.4 The Buyer must not make the software available to anyone other than his own employees or agents directly concerned with the Buyer's use of the software whether by sub-licence or otherwise.

17.5 The Seller warrants that the Goods will not exhibit aberrant behaviour solely on account of the advance of an appropriate operating system's real-time clock from 31 December 1999 to 01 January 2000, but cannot and does not warrant that the software running on the Goods as used by the Buyer (which is not in the Seller's control) will not do so.

### **The Buyer's exclusive remedy under this warranty is limited either:**

17.5.1 to the Seller at its own expense using all reasonable endeavours to rectify any non-conformance with the warranty by repair (by way of a patch work around correction or otherwise) within a reasonable period of time or at the Seller's option replacement of the software or defective component of the software in whole or in part; or

17.5.2 to a refund of the purchase price paid if in the Seller's reasonable opinion it is unable to rectify such non-conformance within a reasonable timescale or at an economic cost.

### **18. Installation of Goods**

18.1 Unless otherwise agreed, the Seller shall install the Goods at the place specified provided that the Buyer shall at his own expense:

18.1.1 provide access to, clear and prepare the site and provide adequate electricity and other services, and such other facilities as will enable the Seller to carry out the work expeditiously and without interruption;

18.1.2 provide connections for electrical and other services to the Goods and labour for the installation thereof; and

18.1.3 provide such assistance, labour, lifting tackle and appliances as may be required in connection with the installation of the Goods.

18.2 The Buyer will indemnify the Seller against all claims and costs arising from or in connection with the use of such assistance, labour, lifting tackle and appliances provided by the Buyer.

### **19. Demonstration of Goods**

19.1 If the Seller undertakes the demonstration of the Goods, the Seller will supply a skilled operator to assist and advise the Buyer's skilled operator in the working of the Goods for such period as the Seller shall in its absolute discretion determine. Any further assistance or advice required by the Buyer will be provided at an additional cost. During this period any such Goods is/are to be considered as under the control of the Buyer, and the Buyer shall supply all necessary materials.

19.2 Upon request, Seller shall endeavour to furnish such technical advice or assistance as it has available, at Buyer's cost. It being expressly understood that all such technical advice or assistance is given without liability and Seller assumes no obligation or liability for any results derived from the advice or assistance given.

### **20. Force Majeure**

20.1 If the performance of the Contract shall be delayed by any circumstances or conditions beyond the control of the Seller, for example, (but without prejudice to the generality of the foregoing) war, industrial disputes, strikes, lockouts, riots, malicious damage, fire, storm, acts of God, accidents, non-availability or shortage of materials or labour, any statute, rule bye-law, order or requisition made or issued by any government department, local or other duly constituted authority, then the Seller shall have the right to suspend further performance of the Contract until such time as the cause of the delay shall no longer be present.

20.2 If the performance of the Contract by the Seller shall be prevented by any such circumstances or condition beyond the control of the Seller, then the Seller shall have the right to be discharged from further performance of and liability under the Contract. If the Seller exercises such right, the Buyer shall thereupon pay to the Seller the value of the Goods delivered under the Contract and shall be released from his contractual liability for the remainder of the Contract.

**21. Notices**

Any notice required to be served pursuant to this Contract shall be in writing and served by first class post or by hand or by facsimile on the Seller at the Seller's last known address, or on the Buyer at the Buyer's last known address. Any notice sent by post shall be deemed to have been served 48 hours after posting and any notice sent by facsimile shall be deemed to have been served at the time of despatch.

**22. Legality and Severance**

The invalidity, illegality or unenforceability of the whole or part of a Condition does not affect or impair the continuation in force of the remainder of these Conditions.

**23. Assignment**

The Seller may at any time (and with the prior written consent of the Buyer (such consent not to be unreasonably withheld or delayed)) assign all or any part of its rights and/or obligations under this Contract. The Buyer shall not assign all or any part of his rights or obligations under this Contract.

**24. Waiver**

The failure by the Seller to exercise, or a delay in exercising a right or remedy provided by the Contract does not constitute a waiver of the right or remedy. No single or partial exercise of any such right or remedy prevents any further or other exercise thereof or the exercise of any other right or remedy.

**25. Arbitration**

All disputes arising out of or in connection with the Contract shall be submitted to the arbitration of a person to be mutually agreed upon or, failing agreement, to an arbitrator to be appointed by the President for the time being of The Law Society in London. Such submission shall be deemed to be arbitration within the meaning of the Arbitration Act 1996 and any statutory modification or re-enactment thereof for the time being in force.

**26. Law**

These conditions shall be construed in conjunction with the Laws of England and the High Court of Justice in London shall have exclusive jurisdiction over any dispute unless otherwise agreed by the Seller

**This document must be signed and returned without amendment**

**Please complete details below**

Authorised Signature

\_\_\_\_\_

Position within Company

\_\_\_\_\_

Print Name

\_\_\_\_\_

Date

\_\_\_\_\_

Company Stamp