

Motion Plus Ltd - Conditions of Sale of Goods and Services

1. Interpretation

1.1 In these conditions

"Authorised Representative" means a director of the company or an employee of the company duly authorised by a director of the company to deal with the customer in the ordinary course of business.

"Company" means Motion Plus Ltd (company no 05968365) whose registered office is Unit 3, Pineham Farm, Haversham, Milton Keynes, MK19 7DP.

"Contract" means any contract between the company and the customer for the sale and purchase of goods and services as set out in these terms and conditions.

"Customer" means company, firm, body or person purchasing the goods.

"Event of Force Majeure" means any cause beyond the reasonable control of the company, including, but not limited to fire, act of god, lightning, explosion, hood, civil disorder, criminal damage, war or military operations, national or local emergency, any acts or omissions or requirements or regulations of any government or any other civil or military authority or any regulatory body, labour disputes of any kind or late delivery or performance or non delivery or non performance by a supplier or subcontractor or any other cause whatsoever beyond the company's control or of an unexpected or exceptional nature.

"Goods" means all or any of the goods, materials, items, products or commodities supplied by the company.

"Order" means the written, facsimile transmission, electronic mail or verbal order received by the company from the customer in respect of the goods or the services.

"Price" means the price payable to the company under the contract.

"Services" means work and/or services or any of them performed by the company for the customer pursuant to an order.

1.2 The contract will come into being upon acceptance by the company of the order and these conditions shall apply to and be deemed to be incorporated into the contract to the exclusion of any other terms and conditions referred to in the order or otherwise stipulated by the customer.

1.3 Any subsequent variation to or modification of these conditions must be expressly agreed to in writing by an authorised representative.

1.4 The headings in these conditions are for convenience only and shall not affect their interpretation.

2. Price and Quantity

2.1 The price payable for the goods or services shall be the price quoted by the company upon delivery of the order.

2.2 The company shall be entitled to adjust the price except where the company has agreed in writing with the customer the price quoted at the date of order.

2.3 All prices quoted to the customer for the supply of goods or the services are exclusive of value added tax and all other local taxes or duties relating to the manufacture, transportation, export, import, sale or delivery of the goods or the performance of the services.

2.4 A minimum order charge will be levied on all orders. The amount of the minimum order charge in force at any time will be supplied by the company upon request.

2.5 Quotations in a currency other than £ sterling are based on the rate of exchange at the time of quoting and unless otherwise stated the price may be subject to revision up or down of any different rate of exchange is ruling at the date of invoice.

3. Terms of Payment

3.1 The company's invoice shall be paid by the customer to the company in cleared funds on or before the last working day of the month following the invoice date, (together with any applicable value added tax, and without any set off or other deduction). The company reserves the right to invoice the customer on any fixed periodic basis or any stage completed basis.

3.2 Failure to pay any invoice in accordance with the foregoing provisions of this condition or any other terms specified in the contract shall entitle the company to suspend deliveries on any order from the customer without prejudice to any other right the company may have. If the customer fails to pay the full amount of any sum due, the company reserves the right to:

3.2.1 without prejudice to any other remedy, charge to the customer interest at 5% above Barclay plc base rate on the amount of any invoice which is not paid by its due date on a day by day basis from the due date to the date of payment of such invoice subject to all applicable UK law, rules and regulations in force from time to time, and;

3.2.2 Where genuine doubts arise as to a customer's financial position and in the case of failure to pay for goods or services or any delivery as aforesaid to suspend delivery or performance of any order or any part without liability, until payment or satisfactory security for payment has been provided.

4. Delivery and Completion Dates

4.1 Where goods are to be supplied from stock, such supply is subject to availability of stock at the date of delivery.

4.2 The company shall not be liable in any circumstances for the consequences of any delay in delivery or failure to deliver if the duration of the delay is not substantial. (if the delay of failure is due to an event of force majeure).

4.3 All goods are sold 'ex works' unless otherwise stated.

5. Packing and Carriage

5.1 The price shall exclude packing and carriage.

5.2 The method of packing the goods shall be at the company's discretion and no claim will be accepted by the company for breakage of or damage to goods in transit on the ground alleged to arise from unsuitable packing materials.

6. Loss or Damage in Transit

6.1 Unless the contract otherwise stipulates, the risk in the goods passes to the customer when the goods are despatched from the company's works and the company accepts no responsibility for any damage or loss in transit. Claims for damage or loss in transit should be made on the freight carrier and any conditions imposed by the freight carrier in relation to claims for damage or loss in transit should be complied with.

7. Title to the Goods

7.1 The delivery of goods by the company to the customer shall not constitute any change of ownership. Risk of damage to or loss of the goods shall pass to the customer upon delivery to the customer.

7.2 Title to the goods shall pass to the customer upon payment for the goods to the company for those goods or any other goods supplied by the company or as otherwise agreed between the parties without prejudice to any right or rejection or other right which may accrue or have accrued to the company under these conditions or otherwise.

7.3 Until payment has been made in full of all sums owing from the customer to the company legal and beneficial ownership in any goods delivered to the customer shall remain with the company. If any of the events referred to in condition 10 occur in relation to the customer, the company shall be entitled to forthwith without notice to repossess goods or any part of the goods or to require the customer to deliver all or any part of them to the company.

7.4 Until title of the goods passes to the customer under condition 7.2, the customer shall from the moment of delivery:

7.4.1 Keep the goods separate and readily identifiable as the property of the company, and

7.4.2 Keep the goods insured to their full value.

8. Warranty

8.1 The customer shall only be entitled to the benefit of warranty or guarantee as is given by the manufacturer.

8.2 The company shall be under no liability in respect of any defect arising from wear and tear, wilful damage, negligence, abnormal working or storage conditions, failure to follow standard procedures, misuse or alteration or repair of the goods without the company's approval.

8.3 The company shall not be liable to the customer, by reason of any representation, or any implied warranty, condition or other term or any duty at common law, or under the express terms of the contract, for any consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever, which arise out of or in connection with the supply of the goods or their use or their resale by the customer.

8.4 The company shall not be liable to the customer or be deemed to be in breach of contract by reason of any delay in performing or any failure to perform, any of the customer's obligations in relation to the goods. If the delay or failure was due to any cause beyond the company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the company's reasonable control:

8.4.1 Act of God, explosion, flood, tempest, fire or accident

8.4.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition

8.4.3 Acts, restrictions, regulations, bye laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority.

8.4.4 Strikes, lockouts or other industrial actions or trade disputes.

9. Limit of Liability

9.1 The company disclaims any liability for and the customer shall indemnify the company against all actions, losses, damages, costs, expenses, or other claims in respect of any infringement (actual or alleged) of any patent, copyright, design or other industrial of intellectual property rights resulting from compliance with the customer's instructions or requirements expressed or implied.

9.2 The company shall not be liable for any loss or damage to any property of the customer in which the goods may be incorporated or with which or near to or in which they may be used.

10. Termination

10.1 Either party shall have the right at any time, by giving notice in writing to the other party to terminate the contract forthwith upon the opening of one or more of the following events:

10.1.1 That other party commits any material or persistent breach of the contract and in the case of a breach capable of remedy, fails to remedy the same within fourteen days of receipt of the written notice giving full particulars of the breach and requiring it to be remedied.

10.1.2 An encumbrance takes possession of or a receiver is appointed over any of the property of assets of that other party.

10.1.3 That other party makes any voluntary arrangement with its creditors or becomes subject to an administration order.

10.1.4 That other party goes into liquidation (except for the purpose of a solvent amalgamation or reconstruction and in such a manner that the company resulting there from effectively agrees to be bound by or assume the obligations imposed on the other party under the contract).

10.1.5 Anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to that party, and

10.1.6 That other party ceases, or threatens to cease, to carry on business.

10.2 The termination of the contract shall not prejudice the company's rights to payment of all sums due or becoming due and does not limit any right or remedy of either party that may have accrued at the date of termination.

11. Returned Goods/Cancellation Policy

11.1 The company shall at its sole discretion accept returns of goods from a customer within 30 days from the date of despatch of such goods, subject to the customer bearing the costs of carriage and delivery of such returned goods to the company's works or to such other delivery address as specified by the company. All goods returned to the company by a customer shall unless otherwise agreed in writing by an authorised representative be subject to a 20% handling and administration charge, calculated by reference to the price for such goods. The cost less the aforementioned charge will be refunded in the form of a credit note to the account.

11.2 The relevant handling and administration charge shall be payable to the company by the customer in cleared funds within 30 days of the date of delivery of the returned goods to the address specified by the company.

12. Health and Safety

12.1 The customer agrees to pay due regard to any information or any revised information whenever supplied by the company (and is deemed to have been given adequate information and to have read and understood it) relating to the use for which the goods are designed or have been tested or concerning conditions necessary to ensure that they will be safe and without risk to health at all times when they are being set, used, cleaned or maintained by any person at work or when they are being dismantled or disposed of, and the customer undertakes to take such steps as may be specified by the above information to ensure that as far as reasonably practicable the goods will be safe and without risk to health at all times as mentioned above. For these purposes the customer is deemed to have been given a reasonable opportunity to test and examine the goods before delivery.

13. Notices

13.1 Any written notice or other communication to be given under these conditions must be in writing and may be delivered either by hand, or sent by pre paid first class letter post or by facsimile transmission.

13.2 Any written notice or other communication shall be deemed served, if delivered by hand at the time of delivery, if posted forty eight hours after posting, and if sent by facsimile transmission at the time of transmission.

13.3 Service of any legal proceedings concerning or arising out of the contract or these terms and conditions shall be effected by causing the same to be delivered to the company secretary of the party to be served, and in the case of the company at its principal place of business, or in the case of the customer at its principal place of business as set out on the order, or to such other address as may from time to time be notified in writing by the party concerned.

14. Law and Jurisdiction

14.1 The construction, validity and performance of these conditions, the contract or any other contract of agreement of the company (and any proceedings whereby one party might be entitled to join the other as a third party) shall be governed by and construed and interpreted in all respects in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the High Courts of Justice in England and Wales in relation to any claim, dispute a difference arising out of or in connection with any contract made on these conditions.

15. Late Payment of Commercial Debts Regulations 2002

15.1 We understand and will exercise our statutory right to claim interest and compensation for debt recovery costs under the late payment legislation if we are not paid according to agreed credit terms.