bibliotheca
transforming libraries

bibliotheca Terms and Conditions

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1. Definitions

"Seller" means bibliotheca Ltd. "Purchaser" means the person, firm or company to be supplied with the Goods. "Goods", means the goods, materials, services, software and/or other items to be supplied by or through the Seller to the Purchaser pursuant to the Contract but specifically excludes any intellectual property rights in the Goods or any processes relating to them and such intellectual property rights shall at all times remain the property of the Seller. "Contract" means the contract for sale and purchase of the Goods made between the Seller and the Purchaser to which these conditions apply.

2. Scope

2.1 Goods supplied to the Purchaser are believed to be suitable for the purpose recommended by the Seller in its usual literature or specification The Seller shall be under no liability to the Purchase(for the use of the Goods for other purposes unless the Purchaser makes such purposes known to the Seller In writing and the Seller recommends the Goods in writing for that purpose, All Goods are sold or supplied on the understanding that the Purchaser will independently determine that all materials to be used in conjunction with the Goods and Which are not provided under the terms of the Contract by the Seller are suitable for use with the Goods and for the Purchaser's own purposes.

2.2 Unless otherwise specifically agreed in writing by the Seller these conditions shall apply to every Contract and no additions or amendments shall be made except in writing and signed on behalf of the Seller, Any conditions or amendments by the Purchaser are hereby excluded.

3. Quotations

A Quotation by the Seller does not constitute an offer and the Seller reserves the right to with draw or amend the same at any time prior to the Seller's acceptance of the Purchaser's order.

4. Prices

The prices payable for the Goods shall (where appropriate) be the Seller's list prices therefore current at the time of despatch The Seller shall have the right at any time to revise such prices Should expedited delivery or any special means of delivery be agreed and necessitate overtime or any other additional costs and expenses an additional charge may be made In the absence of any written agreement to the contrary payment of invoices shall be made without any deduction or set off in cash sterling, so as

to be received by the Seller within 30 days of the date of the Invoice. Interest to be payable on overdue accounts at the rate set from time to time under the Late Payment of Commercial Debts (Interest) Act 1998 from the date at Which payment was due until receipt of payment by the Seller, and whether or not before or after judgement.

5. Delivery

5.1 Time not being of the essence of the Contract, delivery dates mentioned in any quotation or acceptance form or elsewhere are approximate only and not of any contractual effect The Seller shall not be under any liability to the Purchaser in respect of delay in any delivery howsoever arising if delivery shall not have taken place within a reasonable time, The Seller's liability shall be limited to the value of the Goods specified in the Seller's quotation.

5.2 In the event of the Purchaser returning 0(failing to accept any delivery of the Goods in accordance with the Contract the Seller shall be entitled at hi$ option to delivery and Invoice the Purchaser for the balance of the Goods then remainin9 or to suspend, or cancel further deliveries under the Contract The Seller shall be entitled to store at the risk of the Purchase(any Goods Which the Purchaser refuses or fails .to accept and the Purchaser shall in addition to the Invoice price pay all costs of such storage and any additional costs or carriage .incurred as a result of such refusal or failure.

5.3 The Goods shall unless delivered by the Seller's own transport or by a carrier on behalf of the Seller be deemed to have been delivered and the risk therein to have passed to the Purchaser upon their transfer to the carrier named by the Purchaser or (in the case of delivery "ex-works1 upon the Seller notifying the Purchaser that the Goods are available for collection.

5.4 Where the Goods are delivered by the Seller's own transport or by carrier on behalf of the Seller the risk therein shall pass to the Purchaser upon delivery The Seller shall advise the Purchaser of the scheduled date of despatch from the Seller's works and unless the Purchaser notifies the Seller in writing within 10 days of any loss or damage to the Goods in transit the Seller shall not be liable for any such loss for the failure of the Goods to be delivered in good order and condition.

5.5 If in the case of the Contract or any order involving more than one delivery, default is made in payment of the due date, the seller shall have the right to suspend all or any further deliveries pending payment or to terminate the Contract in its entirety by notice in writing to the Purchaser.

6. Title

6.1 The Seller shall remain the sole and absolute owner of the goods until such time as the agreed price on the goods shall have been paid to the Seller by the Purchaser Until such time as the Purchaser shall be the bailee of the goods for the Seller and shall store them upon its premises separately from its own goods or those of any other person and in a manner Which makes them readily identifiable as the goods of the Seller.

6.2 The Purchaser's right to possession of the goods shall cease at whichever is the earliest of the following dates;

(a) On the expiration of the agreed period of credit, if any

(b) If the Purchaser, not being a company commit an act of bankruptcy make a proposal to the Purchaser's creditors for a composition under Section 253 of the insolvency Act f986 0(do anything which would entitle a Petition for Bankruptcy Order to be made

(c) The Purchaser being a company does anything or fails to do anything which would entitle a Receiver to take possession of any assets or which would entitle any person to present a Petition for winding up or apply for an Administration Order.

6.3 The Seller reserves the right to repossess any of the Goods in respect of which pay\1'ent is overdue and thereafter to resell the same end for this purpose the Purchaser hereby grants an irrevocable right and licence to the Seller's servants and agent's to enter upon all and any of its premises with or without vehicles during normal business hours, This right shall continue to subsist not withstanding the Purchase(ceasing to trade or the happening of any of the events hereinafter specified or otherwise and without prejudice to any accrued rights of the Seller there under.

6.4 The Purchaser shall be at liberty to incorporate Goods into another product or chattel subject to the condition that if Goods are admixed 'or united in any way with those of the Purchaser then title shall not pass to the Purchaser but shall remain with Seller and the product thereof

shall become and/or shall be deemed to be for all purposes the property of the Seller If Goods are admixed or united in any way with the property of any person or persons other 1han the Purchaser or are processed with or incorporated therein the product thereof sha!1 become and shall be deemed for all purposes to be owned in common with that other person or those other persons.

7. Insolvency

(a) If the Purchaser ceases to pay its debts in the course of business or cannot pay its debts as they become due or being a company is deemed unable to pay its debts or has e winding up Petition issued against it or being a person commit an act of Bankruptcy or have a Bankruptcy Petition issued against him the Seller without prejudice to other remedies shall;

(b) Have the right not to proceed further with the contract or any other work for the Purchaser and be entitled to charge for the Goods delivered or Goods prepared for delivery whether completed or not together with materials and other incidental expenses incurred for the Purchaser ("the charge"). The charge shall be an immediately payable debt calculable on the total of Goods due to be delivered and all expenses incurred.

(c) In respect of all unpaid debts due from the Purchaser have a general lien on all goods and property in their possession (whether worked on or not and shall be entitled on the expiration of 14 days notice to dispose of such goods or property in such a manner and at such a price as it thinks fit and to apply the proceeds towards the debt.

(d) To call upon the intending Purchasers premises and collect all goods properly marked and identified as property of the Seller.

8. Warranty

8.1 The Seller warrants that any of the Goods supplied hereunder will for a period of 90 days following the date of delivery remain free from defects in material and workmanship under normal use and service, and will conform to the Seller's applicable standard and specification or if appropriate to any written specifications accepted in writing by the Seller The Seller's sole obligation hereunder shall be limited to, at the Seller's option, either crediting the Purchaser with the purchase price orrep1acing the Goods or any part or parts thereof provided that (i) written

notice of non-performance hereunder is received by the Seller no later than 10 days after the expiry of the said warranty periods of 90 days and (ii) after the Seller's written authorisation, the Goods in question are returned to the Seller's dispatching location, freight charges pre-paid and (iii) after examination the Goods in question are revealed to the Seller's satisfaction to be not in conformity with the Contract Any such replacement shall not extend the period within which such warranty can be asserted. This warranty shall not apply to Goods which the Seller determines have, whether by the Purchaser or any other person, been subjected to operating and/or environmental conditions in excess 01 the maximum values, set out in the applicable specifications or otherwise have been subjected to misuse, neglect, improper installation or damage or which have been in any way repaired, serviced, altered, modified or otherwise interfered with by any person other than the Seller's own authorised personnel This warranty may be asserted by the Purchaser only, and not by the Purchaser's customers or users of the Purchaser's products Further and without prejudice to the above, the Seller, while taking reasonable steps to ensure that the Goods will meet the full specification agreed between the parties, does not warrant that the system will be completely free from error immediately and will use all reasonable endeavours to ensure the proper installation and working of the system as soon as practicable.

8.2 In no event will the Seller be liable hereunder for any incidental or consequential loss, damage or injury howsoever arising and subject to the foregoings all conditions, warranties and representations express or implied by statue law or otherwise in relation to the Goods supplied and/or services provided by the Seller are hereby excluded Furthermore, the Seller shall be under no liability to the Purchaser for any loss or damage or injury direct or indirect resulting from defective material, faulty workmanship or otherwise arising out 01 the Contract and whether or not caused by the negligence of the Seller, his servants or agents save In respect of personal injury or death caused as a direct result 01 the Sellers negligence or that of its servants agents or employees.

9. Acceptance

The Purchaser shall be deemed to have accepted the Goods at the end of the period of 10 days following the date of delivery or installation (if relevant) unless within the said period the Purchaser shall have notified the Seller of any defects in the Goods. Where the Purchaser gives notice 01 such defects the Seller shall remedy the same and thereafter the Purchaser shall be deemed to have accepted the Goods and the liability on the Seller's part shall cease save as previously mentioned herein.

10. Purchaser's Property

10.1 The Purchaser's property supplied to the Seller by or on behalf of the Purchaser will be held at the Purchaser's risk.

10.2 Where materials or equipment are supplied by the Purchaser the Seller shall be under no liability to the Purchaser for any loss, damage or injury direct or indirect in relation to the Goods supplied and/or services provided resulting from defects in or unsuitability of such materials or equipment.

11. Force Majeure

11.1 The Seller shall not be liable to the Purchaser for any loss or damage which may be suffered by the Purchaser as a direct or indirect result of the Seller being prevented, hindered or delayed in the performance of its obligations under the contract by reason of any force majeure circumstances.

11.2 In this condition force majeure circumstances shall mean any Act of God, war, riot, strike, lock out, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, drought, exercise of Government Authority, legislation, difficulty in obtaining workmen, materials or transport or other circumstances whatsoever outside the control of the Seller affecting the provisional the Goods and services hereunder or 01 materials therefore by the Seller's usual source of supply ol1he manufacture of the Goods by the Seller's normal means or the delivery of the Goods by the Seller's normal route or means of delivery.

12. Termination

If the Purchaser enters into a deed or arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the Court shall make an order that the Purchaser shall be wound up (otherwise then for the purposes of amalgamation or reconstruction) or if a receiver shall be appointed of any of the assets or undertaking of the Purchaser of if the circumstances shall arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding up order or if the Purchaser takes or suffers any similar action in consequence of debt, or commits any breach of any

part of the Contract the Seller may stop any Goods in transit and suspend further deliveries and by notice in writing to the Purchaser may forthwith terminate the Contract without prejudice to the provisions as to title and to any existing claim.

13. Waiver

The failure on the part of either party to the Contract to exercise or enforce any rights conferred by the Contract shall not be deemed to be a waiver of any such right, nor operate so as to bar the exercise or enforcement thereof at any lime or limes thereafter.

14. Notices

Any notice required to be given hereunder in writing shall be deemed to have been duly given if sent prepaid first class post, addressed to the party concerned at its principal place of business or last known address.

15. Headings

Headings to any of the Conditions are included to facilitate reference only and shall not affect the construction hereof.

16. Governing Law

The Contract shall be governed by construed and Interpreted in accordance with the Laws of England and for the purpose of settlement of any disputes arising out of, or in connection with the Contract the parties hereby submit themselves to the jurisdiction of the English Courts.

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