

## **Standard Terms and Conditions of Sale - NON Business Customers**

### **1. Definitions**

1.1 "Conditions" means the conditions of sale set out in this document and any special and/or additional conditions agreed in Writing by the parties.

1.2 "Contract" means any contract between us and you for the sale and purchase of Goods incorporating the Conditions.

1.3 "Goods" means any goods (including any instalment of goods or any parts for them) which we supply to you in accordance with the Conditions.

1.4 "we" and "us" means Comms Express Limited a company registered in England and Wales with number 04359914 whose registered office is at 7 Grafton Place, Dukes Park Industrial Estate, Chelmsford, Essex CM2 6TG.

1.5 "Website" means [www.comms-express.com](http://www.comms-express.com).

1.6 "Writing" and "Written" includes letter, facsimile transmission, email and other comparable means of communication.

1.7 "you" means the person, firm or company who purchases Goods from us.

### **2. Basis of the Sale**

2.1 We intend to rely on the Conditions and they shall apply to all Contracts to the exclusion of all other terms and conditions (including any terms and conditions which you purport to apply under any purchase order, confirmation of order, or other document). Please read these Conditions carefully before you submit your order to us. These Conditions tell you who we are, how we will provide Goods to you, how you may end the contract, what to do if there is a problem and other important information. Neither party can amend the Conditions without the express agreement of the other in Writing.

2.2 We shall be entitled to correct any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of order, invoice or other document or information issued by us or information on the Website without any liability to you.

2.3 Any descriptions or illustrations contained in our sales literature and the Website are issued for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract unless you confirm all the information that you intend to rely on when you place your order for the Goods and we accept your order.

### **3. The Ordering Process and Prices**

3.1 Each order or acceptance of a quotation for Goods by you shall be deemed an offer to buy Goods subject to the Conditions.

3.2 No order placed by you shall be deemed to be accepted by us until a Written acceptance of order is issued by us or (if earlier) we deliver the Goods to you. Orders will only be accepted if there are no material errors in the description of the Goods or their prices as advertised on the Website.

3.3 When you place your order, we shall acknowledge receipt of your order in Writing. However the order shall not be deemed as accepted by us until a Written acceptance of order is issued by us in accordance with Condition 3.2 above.

3.4 Any quotation is given on the basis that the Contract shall not come into existence until we despatch an acceptance of order to you. Any quotation is valid for a period of 30 days only from its date, provided that we have not previously withdrawn it.

3.5 Unless otherwise agreed by us in Writing, the price for the Goods shall be the price set out on our Website on the date that you order the Goods and shall be inclusive of VAT, packing, postage and carriage. All promotional prices and special offers are strictly subject to availability. Prices are shown on the website inclusive and exclusive of VAT – for the purpose of these Conditions the inclusive of VAT price applies.

3.6 The quantity and description of the Goods shall be as set out in our quotation or your order (if accepted by us).

#### **4. Payment**

4.1 Payment must be made in advance, in full and in cleared funds before we despatch the Goods to you. No payment shall be deemed to have been received until we have received cleared funds.

4.2 Where the Goods are being leased by you, we shall despatch the Goods to you once we have received confirmation from the leasing company that an appropriate leasing contract has been entered into by you.

4.3 Through the website checkout you can pay by Visa, Mastercard, American Express, Debit card, Paypal, and Google checkout, when you have a credit account with us you can pay by Cheque or Bank Transfer (BACS).

4.4 Receipts for payment shall be issued only on request.

4.5 If you fail to pay us any sum pursuant to the Contract, you shall be liable to pay interest to us on such sum from the due date for payment, at the rate of 2 per cent per annum above the base lending rate of Bank of Scotland plc from time to time accruing on a daily basis, until payment is made, whether before or after any judgment.

4.6 You shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless you have a valid court order requiring an amount equal to such deduction to be paid by us.

#### **5. Delivery**

5.1 Subject to Condition 6.2, we will deliver the Goods to you as soon as reasonably possible and in any event within 30 days from accepting your order.

5.2 We may deliver the Goods in advance of any quoted delivery date and notification of such early delivery may be made by telephone call/message or in Writing to you before the due date.

5.3 We may deliver the Goods in instalments if you provide your prior Written consent for us to do so. In such cases, delivery shall not occur until the final Goods comprising a single order have been delivered to you.

5.4 We shall deliver the Goods to the address notified in Writing by you and the method of delivery shall be at our entire discretion.

5.5 A carrier's first attempt to deliver shall be considered as the delivery date and if for any reason you fail to accept delivery of any of the Goods when they are ready for delivery, or we are unable to deliver the Goods on time because you have not provided adequate delivery instructions then, in addition to any other rights that we may have:

5.5.1 risk in the Goods shall pass to you (including for loss or damage caused by our negligence);

5.5.2 the Goods shall be deemed to have been delivered; and

5.5.3 we shall store the Goods until actual delivery and shall be entitled to charge you for the reasonable costs (including insurance) of storage.

5.6 Condition 5.5 shall not apply if your failure to take the delivery arose of circumstances that were outside your reasonable control.

5.7 The costs and timing of all deliveries shall be as published from time to time on our Website and shall be confirmed to you when we accept your order.

## **6. Non-delivery**

6.1 The quantity of any consignment of Goods as recorded by us on despatch from our place of business shall be conclusive evidence of the quantity received by you on delivery unless you can provide conclusive evidence proving the contrary.

6.2 If we are unable to comply with Condition 5.1, we shall contact you within this 30 day period to attempt to agree a new delivery date. If a new delivery date cannot be agreed, the Contract shall be treated as if it had not been entered into by either party and we shall reimburse any monies paid by you within 14 days from the end of the 30 day period (including, without limitation, any delivery costs paid by you).

## **7. Ownership and Risk**

7.1 The risk in Goods shall pass to you upon delivery of the Goods at which time you shall become responsible for their safekeeping and you should therefore make sure that you are adequately insured against any damage or loss which may affect those Goods.

7.2 We are the owners of the Goods until we have received in full (in cash or cleared funds) all sums due to us in respect of the Goods.

7.3 If at any time any payments made for Goods by credit card are reversed by the credit card company for any reason ("a chargeback"), whether the credit card company acted on your instructions or not, the legal ownership of the Goods shall pass back to us.

7.4 Until ownership of the Goods has passed to you, or where ownership has passed back to us as a result of a chargeback, you shall:

7.4.1 hold the Goods on a fiduciary basis as our bailee;

7.4.2 store the Goods (at no cost to us) separately from all other goods belonging to you or any third party in such a way that they remain readily identifiable as our property;

7.4.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

7.4.4 maintain the Goods in satisfactory condition and keep them insured on our behalf for their full price against all risks.

7.5 In addition to any other rights we may have, until ownership passes to you or if a chargeback occurs, we shall be entitled, by giving 7 days notice in Writing, to require you to return or deliver up the Goods to us, at the expiry of which, we shall take legal proceedings to recover the Goods or their value.

7.6 You shall not be entitled to pledge or in any way charge by way of security for any of your indebtedness any of the Goods which remain our property.

## **8. Cancellations**

8.1 You have 14 days from the day after you receive the Goods (and in the case of delivery by instalment, the day after you receive the final Goods) to cancel your order by giving notice to us. Such notice may be by telephone, in writing or email at the telephone number and addresses set out in clause 11.4. Alternatively, you can provide us with such notice by completing and submitting the **Returns Form** to us to the addresses set out in clause 11.4.

8.2 The effective date of cancellation is the date on which the notice is sent.

8.3 You must send off the Goods to us within a reasonable period of time effective from the date of cancellation, a reasonable period of time is generally considered to be within 14 days. The cost of returning the Goods must be met by you.

8.4 If you fail to return the Goods to us in accordance with Condition 8.3, we shall be entitled to recover the Goods and deduct the expenses incurred from the refund due.

8.5 We shall refund any monies paid by you as soon as reasonably possible but in any event no later than 14 days from the date that we received the Goods back from you or, if earlier, the day on which you provide us with evidence that you have sent the Goods back to us. The refund shall be made by the same method as payment.

8.6 Before returning the Goods to us, you must obtain a Goods return authorization number from us, which is to be clearly displayed on each returned parcel.

8.7 All cancelled Goods are to be returned with the original manufacturer's packaging complete with accessories, manuals and documentation.

8.8 This Condition 8 shall not apply to:

8.8.1 goods made to your specifications; and

8.8.2 sealed computer software which has been opened by you.

8.9 Your statutory rights are not affected by any of the conditions in this Condition 8.

## **9. Warranties and Liabilities**

9.1 We warrant that the Goods shall at the time of delivery:

9.1.1 correspond to their description;

9.1.2 be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

9.1.3 be reasonably fit for purpose; and

9.1.4 be reasonably fit for any particular purpose for which the Goods are being bought if you made known that purpose to us in writing and we confirmed to you in writing that it is reasonable for you to rely on our skill and judgment .

9.2 We shall not be liable for a breach of the warranties in Condition 9.1 for any defect arising from:

9.2.1 any drawing, design or specification supplied by you; and/or

9.2.2 fair wear and tear; and/or

9.2.3 wilful damage by you or a third party; and/or

9.2.4 abnormal working conditions; and/or

9.2.5 your failure to follow our instructions (whether oral or in writing); and/or

9.2.6 the alteration or repair of the Goods without our written approval.

9.3 We shall be under no liability under the warranties in Condition 9.1 above (or any other warranty, condition or guarantee) unless and until you have paid the total price for the Goods.

9.4 Where the Goods are covered by manufacturer's warranties we shall endeavour to transfer to you the benefit of the manufacturer's warranties and we shall inform you of the details of such warranties on delivery of the Goods.

9.5 Nothing in these Conditions shall affect your statutory rights or exclude or limit our liability:

9.5.1 for death or personal injury caused by our negligence; or

9.5.2 under section 2(3) of the Consumer Protection Act 1987; or

9.5.3 for fraud or fraudulent misrepresentation; or

9.5.4 for any matter which it would be illegal for us to exclude or attempt to exclude its liability.

9.6 We shall not be liable for the incompatibility of the Goods with other products or equipment owned or used by you.

9.7 If we fail to comply with the Conditions, we are responsible for loss or damage you suffer that is a foreseeable result of our breaching the Contract, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

## **10. If there is a problem with the Goods**

10.1 If you have any questions or complaints about the Goods, please contact us on the details set out in Condition 11.4.

10.2 We are under a legal duty to supply Goods that are in conformity with the Contract. See below for a summary of your key legal rights in relation to the Goods. Nothing in the Conditions will affect your legal rights.

## **Summary of your key legal rights**

This is a summary of your key legal rights. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call 03454 04 05 06.

The Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. During the expected lifespan of your Goods your legal rights entitle you to the following:

- a. Up to 30 days: if your Goods are faulty, then you can get an immediate refund.
- b) Up to six months: if your goods can't be repaired or replaced, then you're entitled to a full refund, in most cases.
- c) Up to six years: if your goods do not last a reasonable length of time you may be entitled to some money back.

See also Condition 8.

10.3 If you wish to exercise your legal rights to reject Goods you must either post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services email us on the details set out in Condition 11.4 for a return label or to arrange collection.

## **11. Customer Service Queries**

11.1 We shall make every reasonable effort to resolve or acknowledge by telephone or in Writing any queries which you have made within 48 hours of receipt of any such query.

11.2 We shall make every reasonable effort to respond to complaints within 5 working days and keep you reasonably notified of any progress thereafter.

11.3 Telephone calls made to us may be recorded for training purposes.

11.4 You should address any comments or queries in Writing to Customer Services Department, Unit 7 Grafton Place, Dukes Park Industrial Estate, Chelmsford, Essex CM2 6TG or telephone 0845 2000 256 or e-mail [support@comms-express.com](mailto:support@comms-express.com).

## **12. Trademarks and Accreditation**

12.1 Both parties acknowledge the intellectual property rights of suppliers and manufacturers of the products appearing in our sales literature and on the Website.

12.2 Where Goods have been manufactured and supplied under an ISO9000 approval this is indicated in the product text.

## **13. Events outside our control**

13.1 We shall not be liable to you if we have delayed or failed to perform any of our obligations under the Contract if the delay or failure was due to circumstances outside our reasonable control. Circumstances beyond our reasonable control shall include, without limitation:

13.1.1 act of God, explosion, flood, tempest, epidemic, fire or accident;

13.1.2 national emergency, war, threat of war, sabotage, insurrection, acts or terrorism, protests, riot, civil disturbance or requisition;

13.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

13.1.4 import or export regulations or embargoes;

13.1.5 strikes, lock-outs or other industrial actions or trade disputes; and

13.1.6 difficulty in obtaining supplies of adequate or suitable materials, labour or machinery.

13.2 If we are unable to provide you with the Goods within 30 days of acceptance of your order due to an event outside our reasonable control pursuant to Condition 13.1 and an extension of time cannot be agreed between the parties, the Contract shall be treated as if it had not been entered into by either party and we shall reimburse any monies paid by you within 14 days from the end of the 30 day period.

#### **14. Data Protection and Privacy**

14.1 Please read our [Privacy Policy](#) for details of how we may use any information that you have provided to us.

#### **15. Contracts (Rights of Third Parties) Act 1999**

15.1 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

#### **16. No Waiver**

16.1 Any waiver by us of any breach of, or any default under, any provision of the Contract by you shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

16.2 Failure or delay by us in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of our rights under the Contract.

#### **17. Assignment**

17.1 You must not transfer the Contract made with us under these Conditions, as it is personal to you, without consent in Writing from us. This consent will not be unreasonably withheld or delayed.

#### **18. Notice**

18.1 Any notice required or permitted to be given under these Conditions shall be in Writing addressed to the other party at:

18.1.1 in the case of a firm or company, its registered office or principal place of business; or

18.1.2 in the case of an individual at the delivery address of the Goods, or such other address as may at the relevant time have been notified to the party giving the notice.

18.2 Notices shall be delivered by hand or sent by first class prepaid recorded delivery or by registered post (airmail if overseas) or by facsimile transmission or by e-mail and shall be deemed to have been received:

18.2.1 if delivered by hand on the day of delivery; or

18.2.2 if sent by pre-paid first class recorded delivery or registered post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);

18.2.3 if sent by airmail, seven days after posting;

18.2.4 if sent by fax or e-mail on a working day prior to 4.00pm, at the time of transmission and otherwise on the next working day, provided that, in the case of fax, the sender shall have received printed confirmation of transmission.

## **19. Enforceability**

19.1 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the Contract and the remainder of the provision in question shall continue in full force and effect.

## **20. Dispute and Jurisdiction**

20.1 This Contract shall be governed by the laws of England and the parties submit to the exclusive jurisdiction of the English Courts.