

Legal Policies

Legal Policies - Supplier Terms of Business

We/us/our means Ndizvo Limited (company number 04395564).

You/your means the person, firm or company providing goods and/or services to us.

1. The terms of this contract shall consist of:

(a) The details specified either on the order sheet or in the correspondence from us instructing you to supply the goods and/or services; and

(b) these Terms of Business, which shall not be varied or overridden by any conditions stipulated by you or by any other agreement between you and us unless agreed in writing between your authorised representative and one of our directors.

2. We will not be responsible for goods supplied or services rendered to us unless covered by an official order or contract signed by our authorised representative.

3. The time of delivery of goods or performance of services shall be of the essence of the contract.

4. You warrant to us that the goods will:

(a) Be of satisfactory quality and fit for any purpose held out by you or made known to you in writing at the time the order is placed;

(b) Be free from defects in design material and workmanship;

(c) Correspond with any relevant specification or sample;

(d) Comply with all statutory requirements and regulations relating to the sale of goods;

(e) Not infringe any intellectual property rights of any third party; and

(f) (If appropriate) be Year 2000 Compliant (within the meaning of the British Standards Institution "Definition of Year 2000 Conformity Requirements") and will be EURO compliant.

5. You warrant to us that you have power to provide the services you have agreed to supply and have obtained all necessary approvals to do so. You also warrant to us that the services will be performed by appropriately qualified and trained personnel, with due care and diligence, in compliance with all relevant statutory requirements and regulations, and to such high standard of quality as it is reasonable for us to expect in all the circumstances. In particular you warrant to us that in supplying the goods to us and/or performing the services for us you comply and will at all times comply with the Working Time Regulations 1998, all health and safety legislation, and all ethical and moral requirements determined by us from time to time.

6. If you are unable to comply with the delivery instructions and/or any other instructions or conditions of the contract you must advise us immediately and thereupon we reserve the right to cancel the order either in whole or part or to confirm the order subject to such further instructions as shall be in our opinion reasonable. If we cancel the order in whole or in part we shall not be liable to you for any payment of whatever nature relating to the whole of the order or that part of it (as appropriate).

7. We reserve the right to inspect goods at any stage of manufacture at your place of business or any third party premises prior to despatch.

8. The price for the goods or services shall be as stated in the order and, unless otherwise so stated, shall be:

(a) Exclusive of any applicable value added tax (which shall be payable by us subject to receipt of a VAT invoice); and

(b) inclusive of all charges for packaging and its return, packing, shipping, carriage, insurance and delivery of the goods to our address and any duties, imposts or levies other than VAT.

9. You shall invoice us at any time after delivery of the goods or performance of the services and, subject to Clauses 6 & 11; we will pay you within 60 days of receipt of your invoice.

10. No increase in the price may be made (whether on account of increased material, labour or transfer costs, fluctuation in rate of exchange or otherwise) without our prior consent in writing.

11. Each consignment of goods must be accompanied by a packing delivery note which must show an order reference number and the

quantities of each item. You must ensure that each delivery note is signed by an authorised representative of ours in order to prove delivery of the goods in question and without prejudice to any other remedy we reserve the right to delay payment to you if you fail to do so or if the order reference number is not included on the delivery note. Delivery of the goods to us, our inspection or failure to inspect the goods and/or our signature on any delivery note shall not constitute or imply our acceptance of the quality or standard of the goods.

12. When required, you will mark the goods and materials ordered in accordance with our instructions.

13. No signs or advertisements, maker's names or trademarks shall be permitted on the goods or on any material whatsoever unless agreed by us in writing.

14. Any specification or information supplied or produced by us to or for you in connection with the contract, together with the copyright, design rights or any other intellectual property rights in the specification and information, shall be our exclusive property. You shall not disclose to any third party or use any such specification or information except to the extent that it is or becomes public knowledge through no fault of yours, or is required for the purpose of the contract. You shall, if required by us, enter into a separate undertaking in respect of your obligations under this clause.

15. (a) All intellectual property rights (including patents, registered designs, unregistered designs, copyrights, technical information or know how and similar rights both in the United Kingdom and abroad) ("the Rights") arising in the course of or as a consequence of you providing goods and/or services to us shall belong to us.

(b) Any tooling produced in relation to our contract with you, and all Rights in such tooling shall belong to us. On termination of that contract or on payment by us of your invoice relating to such tooling (whichever is the earlier) you shall immediately on our request deliver it/them up to us and if you fail to do so we are hereby granted an irrevocable license to enter your premises and remove it/them.

(c) You warrant to us that the Rights shall be free of all third party claims of ownership and that all work undertaken by you in which the Rights might arise shall be your own original work.

(d) You hereby assign to us, by way of future assignment, all copyrights or other Rights which arise (and you agree to waive or procure the waiver of any equivalent moral rights) immediately on their coming into existence.

(e) If full legal title to any Rights shall fail automatically to belong to us by virtue of this clause, you shall hold such Rights on trust for us absolutely, and shall immediately at our request execute or procure the execution of any document required by us to vest in us the full legal title to such Rights and to enable us (or our nominee) to enjoy the benefit of such Rights.

16. You will indemnify us in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by us as a result of or in connection with:

(a) Your breach of the contract and in particular breach of any warranty given by you in relation to the goods supplied or services rendered;

(b) Any claim that the goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trademark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by us;

(c) Any liability under the Consumer Protection Act 1987 in respect of the goods supplied;

(d) Any act or omission of yours or your employees, agents or sub-contractors in supplying, delivering and installing the goods or supplying the services;

(e) Any claim that the goods do not conform with Section 6 of the Health and Safety at Work Act 1974;

(f) Your failure to deliver the goods or perform the services within the time specified in the order or contract.

17. This order is placed only on the understanding that the goods shall be safe and conform with Section 6 of the Health and Safety at Work Act 1974 and that where appropriate you shall correctly install them and advise us of their correct method of operation and the appropriate

safety precautions to be taken by persons engaged in its subsequent use.

18. You will return to us or (at our discretion) destroy or delete on demand any drawings, specifications, films or other items or information belonging to us or our clients together with any copies in whatever format held.

19. You will be responsible for and insure against loss or damage to the full value any drawings, specifications, films and other items belonging to us or our client during the time that they are in your possession or in transit to or from our premises or those of our clients. You will also maintain product and public liability insurance of no less than £2,000,000.

20. You will insure the goods against loss or damage to their full value whilst on your premises and in transit to our premises or to another destination at our request. Risk in the goods shall pass to us or our client (as appropriate) on delivery.

21. Ownership in the goods shall pass to us on delivery or, when payment has been made wholly or partly in advance, upon such payment being made or on ascertainment of the goods whichever is the later. The goods shall be free of any lien or third party rights and shall not be subject to retention of title by you, the manufacturer or any intermediary.

22. We shall be entitled to deduct from or set off against any monies due from us to you any sums which you shall be liable to pay us on any account.

23. In the event of any defect appearing in the goods supplied or work executed by you within 12 months from the date of delivery of the goods or completion of the work, without prejudice to our other remedies, at our request such defective goods or work shall be replaced or made good by you at your cost and expense as soon as possible and in any event no later than 7 days after discovery of that defect.

24. Notwithstanding any other provision of these Terms and without prejudice to any other remedy, we reserve the right to terminate or suspend (in whole or in part) the contract without any liability to you in the event of:

(a) Either of us being unable or prevented from performing our obligations under the contract due to any circumstances beyond our reasonable control;

(b) Breach of any warranty by you in relation to the goods supplied or services performed;

(c) The levying of any distress or execution against you or the making by you of any composition or arrangement with your creditors or being a company, your liquidation (whether by members' or creditors' voluntary liquidation);

(d) A receiver, administrator or administrative receiver being appointed over any of your assets or undertaking or (being an individual) an order is made for your bankruptcy or (being a company) you are unable to pay your debts within the meaning of Section 123 of the Insolvency Act 1986;

(e) Any analogous proceedings to those at Clauses 24(c) or 24(d) occurring in any other jurisdiction or under any foreign law;

(f) Your doing or permitting of any act by which our rights in the copyright design rights or any other Rights may be prejudiced or put in jeopardy;

(g) You failing to deliver the goods or perform the services by the time specified in the order or contract;

(h) Your breach of any provision of the contract (where you have failed to remedy the breach within 14 days of being notified of it by us).

25. (a) Any dispute or difference between us arising out of this contract may be referred by either of us to adjudication. The adjudicator shall be a person to be agreed between us, or if we cannot agree, on the application of either of us, a person nominated as adjudicator by the Chairman of the Technology and Construction Solicitors Association ("TeCSA").

(b) Adjudication shall proceed and be conducted in accordance with the adjudication rules published by TeCSA.

26. You may not assign or subcontract any or all of your rights and obligations under this contract at any time.

27. Any notice required or permitted to be given by either party to the other under these terms shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may have been notified pursuant to this clause to the party giving the notice and may be delivered personally, by first class post, by first class airmail letter or by fax. A notice shall be deemed to have been served if personally delivered at the time of delivery, if sent by first class post 48 hours after posting, if delivered by first class airmail letter 7 clear days after posting or if sent by fax at the time of transmission.

28. No waiver by us of any breach of any provision of the contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

29. The formation, interpretation and operation of the Contract shall be governed by English Law and you agree to submit to the exclusive jurisdiction of the English Courts in all matters regarding it except to the extent that we invoke the jurisdiction of the Courts of any other country.