

### 1. Definitions

In these terms and conditions, the following words shall have the following meanings:

- 'The Company' shall mean Worth Comms Ltd.
- 'The Goods' shall mean the products or articles which are manufactured or sold by the Company.
- 'The Buyer' shall mean the purchaser of the Goods from the Company.

### 2. The Contract

- 2.1 All orders are accepted under these Terms and Conditions alone.
- 2.2 These Terms and Conditions exclude any other Terms and Conditions inconsistent therewith which a buyer might seek to impose even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supercede any Terms or Conditions inconsistent with them or may be contained in any offer acceptance or counteroffer made by the Buyer.
- 2.3 No variations of these Terms and Conditions is permitted unless expressly accepted by a Director of the Company in writing.
- 2.4 All verbal orders must be confirmed to the Company in writing by post, email, or fax.

### 3. Cancellation

- 3.1 No cancellation by the Buyer is permitted except where expressly agreed by the Company.
- 3.2 The Buyer will in the event of agreed cancellation by the Buyer indemnify the Company fully against all expenses incurred up to the time of such cancellation.

### 4. Price

- 4.1 All prices charged are those ruling at the date of acceptance of the order from the Buyer unless otherwise stated.
- 4.2 Unless otherwise stated the prices charged are nett ex works exclusive of Value Added Tax.
- 4.3 The Company reserves the right at any time prior to delivery of the Goods to adjust the price to take account of any increase in the cost of raw materials, labour or services, taxes or duties or any currency fluctuations affecting the cost of imported materials.

### 5. Terms of Payment

- 5.1 The Buyer shall make payment net cash with the Buyer's order except where the Company has agreed to open a credit account. In this case, the Buyer shall make payment net cash against every invoice from the Company within 30 days of the date of such invoice.
- 5.2 Time for payment shall be of the essence.
- 5.3 The Company reserves the right to charge interest at 2% per month on all overdue accounts, such interest being deemed to accrue on a day to day basis from the due date for payment under clause 5.1.
- 5.4 The Buyer shall have no right of set off, statutory or otherwise.
- 5.5 If the Buyer (being a company) has a petition presented for its winding-up or for an administration order under the Insolvency Act 1986 or passes a resolution for voluntary winding-up otherwise than for the purposes of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver appointed of all or any part of its assets or (being an individual) becomes bankrupt or insolvent or enters into any arrangement with its creditors or commits a material or serious breach of this Agreement (and in the case of such a breach being remediable fails to remedy it within 7 days of receiving notice to do so), he will be deemed to have repudiated the Contract.
- 5.6 The Company reserves the right at any time at its discretion to demand security for payment before continuing with or delivering any Order.

### 6. Delivery

- 6.1 All items quoted for delivery shall be delivered to the Buyers address or, if different, as specified on the Buyer's order.
- 6.2 The Company shall be responsible for the delivery of Goods to the delivery address, but the cost of such delivery, packing and insurance may be charged to the Buyer.
- 6.3 Time of delivery is not of the essence.
- 6.4 The Company shall not be liable for any loss whatsoever or howsoever arising caused by its non-delivery.
- 6.5 The Company reserves the right to make delivery by installments and to tender a separate invoice in respect of each installment.
- 6.6 When delivery is to be by installment or the Company exercises its right to

delivery by installments under clause 6.5 hereof or if there be any delay in the delivery of any one or more installments for whatever reason this will not entitle the Buyer to treat the contract as repudiated or to damages.

6.7 Deviations in quantity of the Goods delivered (representing not more than 10 per cent by value) from that stated in the Buyer's order shall not give the Buyer any right to reject the Goods or to claim damages and the Buyer shall be obliged to accept and pay at the contract rate for the quantity of the Goods delivered.

### 7. Risk and the Passing of Property

- 7.1 Risk in the Goods shall pass to the Buyer when the Goods are delivered to, or collected by, the Buyer or his agent.
- 7.2 Notwithstanding risk in the goods passing in accordance with clause 7.1 hereof, title in the goods shall not pass to the Buyer until payment has been received by the Company for the Goods and no other amounts are then outstanding from the Buyer to the Company in respect of other Goods supplied by the Company.
- 7.3 The Buyer is licensed by the Company to use or agree to sell the Goods delivered to the Buyer subject to the provisions of clauses 7.4 and 7.5
- 7.4 Until title to the Goods passes:
  - 7.4.1 the Buyer will hold the Goods as fiduciary agent and bailee for the Company;
  - 7.4.2 the Goods shall be kept separate and distinct from all other property of the Buyer and of third parties and in good and substantial repair and condition and be stored in such a way as to be clearly identifiable as belonging to the Company;
  - 7.4.3 the Company may at any time revoke the power of sale and use of the Goods by notice to the Buyer if the Buyer is in default for longer than 14 days in the payment of any sum whatsoever due to the Company (whether in respect of the Goods or any other goods supplied at any time by it to the Buyer)(or if the Company has bona fide doubts as to the solvency of the Buyer);
  - 7.4.4 the Buyer's power of sale and use shall automatically cease if the Buyer has a petition presented for its winding-up or for an administration order under the Insolvency Act 1986 or passes a resolution for voluntary winding-up otherwise than for the purposes of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver appointed of all or any part of its assets or becomes bankrupt or insolvent or enters into any arrangements with creditors or takes or suffers any similar action in consequence of debts or carries out or undergoes any analogous act or proceedings under foreign law;
  - 7.4.5 upon determination of the Buyer's power of sale and use the Buyer shall place any of the Goods, in its possession or under its control, at the disposal of the Company and the Company shall be entitled to enter the premises of the Buyer for the purpose of removing the Goods.
- 7.5 The Company shall at any time be entitled to appropriate any payment made by the Buyer in respect of any Goods in settlement of such invoices or accounts in respect of such goods as the Company may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the Buyer.

### 8. Lien and Stoppage

Until such time as the title in the Goods has passed to the Buyer the Company has the right to withhold delivery if the Buyer (being a Company) has a petition presented for its winding-up or for an administration order under the Insolvency Act 1986 or passes a resolution for voluntary winding-up otherwise than for the purposes of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver appointed of all or part of its assets or (being an individual) becomes bankrupt or insolvent or enters into any arrangements with creditors or takes or suffers any similar action in consequence of debts or carries out or undergoes any analogous act or proceedings under foreign law.

### 9. Inspection/Shortage

- 9.1 The Buyer is under a duty whenever possible to inspect the Goods on delivery or on collection as the case may be.
- 9.2 Where the Goods cannot be examined the carriers note or such other note as appropriate shall be marked 'not examined'.
- 9.3 The Company shall be under no liability for any damage or shortages that would be apparent on careful inspection if the terms of this clause are not complied with and, in any event will be under no liability if a written complaint is not delivered to the Company within 10 days of delivery detailing the alleged damage or shortage.
- 9.4 In all cases where defects or shortages are complained of the Company shall be under no liability in respect thereof unless an opportunity to inspect the

Goods is supplied to the Company before any use is made thereof or any alteration or modification is made thereto by the Buyer.

9.5 Subject to Clause 9.3 and 9.4, the Company shall make good any shortage in the Goods and where appropriate replace any goods damaged in transit as soon as it is reasonable to do so, but otherwise shall be under no liability whatsoever arising from such shortage or damage.

#### 10. Warranty

10.1 The Company warrants that it has title to and the unencumbered right to sell the Goods.

10.2 It is the Buyer's responsibility to ensure that the Goods are suitable for the purpose to which they are intended to be used.

10.3 No representation or warranty is given as to the suitability or fitness of the Goods for any particular purpose and the Buyer shall satisfy itself in this respect and shall be totally responsible therefore.

10.4 If the Buyer has any specific requirements for the use of the Goods the Buyer must notify these requirements to the Company in writing before purchasing the Goods.

10.5 If the Buyer is unsure as to the suitability of any Goods for a particular purpose it should consult the Company prior to purchase.

10.6 If the Goods are in such a state as would but for this condition entitle the Buyer to repudiate the contract and/or claim damages from the Company the Company reserves the right to repair or replace the Goods.

#### 11. Liability

##### 11.1 Introduction

11.1.1 Nothing in clause 11 shall be deemed to exclude or restrict the Company's liability for death or personal injury resulting from the Company's negligence.

11.1.2 Each of the sub-clauses in Clause 11 is to be treated as separate and independent.

##### 11.2 Exclusion

11.2.1 Clause 11.2 only covers defects caused by faulty design, manufacture, materials or workmanship. It does not cover defects caused by abnormal use, misuse or neglect. It does not cover faulty design, manufacture materials or workmanship supplied or undertaken by the Buyer or third parties. In respect of goods not designed or manufactured by the Company, the Company only gives such guarantee or warranty to the Buyer as the Company itself receives.

11.2.2 The Company agrees that if any defect covered by Clause 11.2 is discovered during the period of twelve months commencing with the date of dispatch, the Company will either repair the goods at its own expense or, if it chooses to do so, replace them.

11.2.3 The Company does not bear responsibility for any defect arising or introduced by a Buyer in the course of storage or handling of the products where that Buyer acts as agent or distributor of the Company's products. The Buyer should consult the Company if doubt exists with regard to the appropriate storage or handling requirements.

11.2.4 The Buyer cannot claim the benefit of this clause unless:

- (1) he informs the Company of the relevant defect in writing within 7 working days of discovering it; and
- (2) he returns the Goods to the Company at his own expense.

11.2.5 The risk of accidental loss whilst the Goods are being returned will be borne by the Buyer.

11.2.6 In consideration for receiving the benefit of this clause, the Buyer agrees that, apart from those terms set out in Clauses 9 and 10, no other terms, conditions, warranties or in nominate terms, express or implied, statutory or otherwise, shall form part of this contract.

##### 11.3 Exclusion of Consequential Loss

The Company shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss arises from breach of duty in contract or tort or in any other way (including loss arising from the Company's negligence). Non exhaustive illustrations of consequential or indirect loss would be:

- loss of profits
- loss of contracts
- damage to property of the Buyer or anyone else, and personal injury to the Buyer or anyone else (except so far as such injury is attributable to the Company's negligence).

##### 11.4 Limitation

The Company's total liability for any one claim or for the total of all claims arising from any one act or default of the Company (whether arising from the Company's negligence or otherwise) shall not exceed £1,000,000.

#### 12. Special Packaging or Materials

Where special materials or branded packaging are required to satisfy the Buyer's order specification, it will be a condition that any surplus quantity of these items produced by the Company will, on completion of the Buyer's order, be invoiced to, and payable by, the Buyer.

#### 13. Force Majeure

13.1 The Company shall not be liable for any failure to deliver the Goods arising from circumstances outside the Company's control.

13.2 Non-exhaustive illustrations of such circumstances would be act of God, war, riot, explosion, abnormal weather conditions, fire, flood, strikes, lockouts, Government action or regulations (UK or otherwise), delay by suppliers, accidents and shortage of materials, labour or manufacturing facilities.

13.3 Should the Company be prevented from delivering in the above circumstances, it shall give the Buyer written notice of this fact as soon as reasonably practicable.

13.4 If the circumstances preventing delivery are still continuing three months after the Buyer receives the Company's notice, then either party may give written notice to the other cancelling the contract.

13.5 If the contract is cancelled in this way, the Company will refund any payment which the Buyer has already made on account of the price (subject to deduction of any amount the Company is entitled from the Buyer) but the Company will not be liable to compensate the Buyer for any further loss or damage caused by failure to deliver.

#### 14. Sales Promotion Documentation

14.1 Whilst the Company takes every precaution in the preparation of its catalogues, technical circulars, price lists and its literature, these documents are for the Buyer's general guidance only and the particulars contained therein shall not constitute representations by the Company and the Company shall not be bound thereby.

14.2 Illustrations and sizes refer to patterns as made at the time of publication. In view of continued improvements and variations in availability of materials, the right is reserved to supply Goods of similar quality which may not correspond exactly with the particulars given.

#### 15. Notice

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address specified overleaf or such address as the party may from time to time notify in writing and shall be deemed to have been served, if sent by post, 48 hours after posting.

#### 16. Assignment

Neither the Company nor the Buyer shall assign or transfer or purport to assign or transfer the contract or the benefits thereof to any other person without the prior written consent of the other.

#### 17. Proper Law and Jurisdiction

The contract shall be governed by and construed in accordance with the law of England.

#### 18. Waiver

The rights and remedies of the Company under the contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by the Company in asserting or exercising any such rights or remedies.

#### 19. Headings

The headings of these conditions are for convenience only and shall have no effect on the interpretation thereof.