

Hypnos General Terms and Conditions of Sale

1. DEFINITIONS

'Company' means Hypnos Ltd whose Registered Office is Longwick Road, Princes Risborough, Buckinghamshire HP27 9RS and/or any of its affiliated companies.

'Customer' means the person, firm or company to whom the Company addresses a quotation of whose order is accepted by the Company.

'Goods' means all items supplied by the Company to the Customer which are the subject of such quotation or order.

'Place of Delivery' means the place of delivery indicated in quotation of contract.

2. GENERAL

All prices quoted by the Company on all orders and any variations to them are subject to the Terms and Conditions as set out below which shall prevail over any other terms and conditions earlier agreed expressly or by conduct between the Company and the Customer, or under which the Customer customarily trades or may purport to trade. No variation to these Terms and Conditions shall be effective unless in writing. Accordingly, any contract for the sale of Goods by the Company shall be on these Terms and Conditions only unless so varied in writing.

3. LIMITS OF CONTRACT

No binding contract is created until an order is accepted by the Company and all prior correspondence or oral communications are to be regarded as superseded and not forming part of the Contract. Prices quoted are subject to revision for changes in circumstances beyond the Company's reasonable control and for errors and omissions at any time.

4. PRICE

- The prices specified in any quotation shall be the price ruling at the date of dispatch and are valid only for the Goods and the delivery dates specified in such quotations, and only if an order in writing is received by the Company within the period of 30 days after the date of such quotation.
- All prices are exclusive of VAT and any applicable customs or excise duties. The Customer shall pay and reimburse the Company for all such duties incurred by the Company.
- Where a project is sub-divided into multi-phased deliveries, special charges will apply according to the scheduled requirements and location.
- The Company reserves the right to charge for frustrated deliveries where it is not able to complete the delivery due to circumstances beyond its control or where delivery conditions in 6 e) are not met. This is to include waiting time, parking fines, overtime and other vehicle costs amongst other costs.

5. PAYMENT

- Unless otherwise agreed by negotiation and confirmed in writing, payment in full in respect of all Goods supplied shall be due no later than the 20th of month following invoice.
- Payment may not be refused or delayed by reason of any defect in the Goods which the Company has agreed by warranty, guarantee or otherwise to remedy.
- All payments shall be made without deduction or set off.
- Failure by the Customer to make payments in the time and manner stipulated above shall entitle the Company:
 - to refuse to make or delay making further supplies of the Goods
 - to charge interest at 4 per cent per annum above the Base Rate from time to time on all sums remaining unpaid after the date when payment is due, unless otherwise agreed.
- In the case of export sales, unless otherwise agreed in writing the Customer shall establish an irrevocable letter of credit in favour of the Company immediately upon receipt of the Company's acceptance of the Customer's order and confirmed by a United Kingdom bank acceptable to the Company. The letter of credit shall be for the price payable to the Company for the goods (together with any tax or duty payable) and shall be valid for at least 6 months or such longer period as is estimated by the Company for delivery. The Company shall be entitled to payment upon presentation to such United Kingdom bank of the documents specified by the Company.
- The Company may offer prompt payment discounts to customers. These discounts are offered at the time of invoicing and do not represent an ongoing arrangement.

6. DELIVERY

- Any time or date for the dispatch or delivery of Goods, whether specified in the Company's quotation or otherwise given by the Company, shall be taken as an estimate made by the Company in good faith, but shall not be binding upon the Company, either as a term of contract or otherwise, except when Goods are delayed, otherwise then due to the Company's force majeure or an act or omission of the Customer, by more than twenty-eight (28) days beyond the date specified in the Company's order acknowledgment. In that event the Customer may cancel the order and purchase substitute goods. If the price of such substitute goods is higher than the price of the Goods the Company shall reimburse the Customer the difference in price up to a maximum of 50% of the price of the Goods (excluding VAT). The Customer shall have no other remedy for delayed delivery and shall not be entitled to make time of the essence. In no circumstances shall the Company be liable for any loss, damage or expense suffered or incurred by any other person directly or indirectly as a result of any delay in delivery.
- At the time of delivery it is the responsibility of the Purchaser to check that the goods are not damaged and have arrived in good condition. If any discrepancy in quantity or damage is found in a delivery then the Purchaser must sign accordingly and inform the company within 7 days.
- The Company cannot accept responsibility for damage to the product once it is removed from its packaging.
- Goods will be packed in accordance with the Company's normal practice unless otherwise specified in its quotation.
- Installation activity is based on the following:
 - Installation is completed in the minimum number of visits using the optimum vehicle loads at Hypnos's discretion. Should the Purchaser require phased deliveries then additional charges apply.
 - Free and adequate vehicle access is made.
 - Free and adequate access is available to the rooms in which the furniture is to be installed. This includes availability of lifts on all deliveries above the first floor.
 - Rooms are clean, completely finished, free of other trades working and of stored equipment.
 - Compliance with Company Health and Safety regulations.
 - Installation to be conducted between 9:00 am and 5:30pm.
- If any monies for previous deliveries have not been received by the due dates, all further deliveries may be held pending full payment.
- If the Customer has by act or omission caused delay in delivery of, or failed to collect the Goods within 21 days of the original scheduled delivery date the Company shall be entitled to arrange storage for the Goods. In that event:
 - the Customer shall reimburse the Company for all costs, charges and expenses incurred in connection with such storage; and
 - the Goods shall be treated for all purposes as delivered on the date that they are put into storage or the original scheduled delivery date whichever is the latest and
 - shall be invoiced, at that date, if they have not been invoiced before.
- Should the Company encounter adverse site conditions beyond our control we reserve the right to recover all costs associated with the Company fulfilling the contract within the conditions prevailing including parking costs, overtime and additional vehicle costs amongst other costs.
- If the Company is frustrated in its scheduled delivery because site conditions are not as agreed in the Delivery clause it will need an Purchase Order from the Customer in order to make arrangements for an alternative delivery.

7. LOSS OR DAMAGE IN TRANSIT

- If Goods are received damaged or short delivered, the Customer shall sign the carrier's sheet strictly in accordance with actual condition. In addition, complaints for such damage and other complaints and claims in respect of partial loss, damage, deviation, miss-delivery or delay, must be made in writing to the Company within 3 days of receipt of Goods, otherwise no claim can be accepted.
- If Goods are not received within 7 days of invoice, the Customer must notify the Company in writing. Notifications not received within 11 days of invoice will not be accepted.
- Any liability which the Company may incur for loss of or damage to the Goods whilst in transit shall in no case exceed the invoice value of the Goods (excluding VAT) and in no circumstances shall the Company be liable for any loss of profits or any indirect or consequential loss however caused.

8. RISK

Risk in Goods supplied shall pass to the Customer as soon as they are delivered to the customer, or its servant or agent, or to a third-party carrier for delivery to the Customer, or at the time of collection of the Goods, or their removal from the control of the Company by or on behalf of the Customer, or at the time payment in full for the Goods is received, whichever shall be the sooner.

9. TITLE

- Title to the Goods shall only pass to the Customer upon the happening of any one of the following events:-
 - the Customer having paid to the Company all sums (including any default interest) due from it to the Company under the contract for the Goods in question and under all other contracts between the Company and the Customer including any sums due under contracts made after the contract in question, whether or not the same are immediately payable; or
 - the Company serving on the Customer notice in writing specifying that title in the Goods has passed.
 - By placing an order with the company, the customer forgoes any right in its own Purchase Terms and conditions to overturn the company's conditions of title.
- The Company may recover Goods in respect of which title has not passed to the Customer on whichever is the earliest of the following dates:-
 - on the expiration or any agreed period of credit in relation to the Goods;
 - if the Customer, being a company, registered in the United Kingdom, does anything, or fails to do anything which would entitle a creditor to appoint a receiver to take possession of any of the Customer's assets or which would entitle any person (including the Customer itself) to present a petition for winding up the Customer or to propose an application for an administration of or voluntary arrangement in relation to the Customer under the Insolvency Act 1986 or if a resolution is passed for the winding up of the Customer (otherwise than for the purposes of amalgamation or reconstruction whilst solvent) or if the Customer ceases or threatens to cease to carry on its business by reason of insolvency or approaching insolvency or otherwise;
 - if the Customer, being an individual, does anything or fails to do anything which would entitle any person to present a petition for bankrupting the Customer or if a statutory demand is served on the customer or if any person (including the Customer) presents a petition for bankrupting the Customer proposes or enters into a formal individual voluntary arrangement or an informal arrangement with the creditors of the Customer or if the Customer refuses or threatens not to pay the creditors of the Customer by reason of insolvency or otherwise;
 - in any event, whether the Customer is an individual or a company, if distress or execution is levied against any of the Customer's assets or if a judgement against the Customer remains unsatisfied for more than 7 days or if in the reasonable opinion of the Company the Customer is unable, or is likely to become unable, to pay its creditors as and when its debts fall due and the Customer irrevocably licenses the Company, its officers, employees and agents to enter upon any premises of the Customer, with or without vehicles, for the purpose either of satisfying itself that condition 9.3 below is being complied with by the Customer or of recovering any Goods in respect of which title has not passed to the Customer.
- Until title to the Goods has passed to the Customer under these conditions it shall possess the Goods as fiduciary agent and bailee of the Company. If the Company so requires, the Customer shall store the Goods separately from other Goods and shall ensure that they are clearly identifiable as belonging to the Company. During such time as the Customer possesses the Goods with the Company's consent, the Customer may in the normal course of its business sell or hire the Goods as principal and without committing the Company to any liability to any person dealing with the Customer.
- Notwithstanding that title to the Goods has not passed to the Customer, the Company shall be entitled to maintain an action for the price of Goods.
- Each paragraph and sub-paragraph of the Condition is separate, severable and distinctive.

10. SUSPENSION OR CANCELLATION OF DELIVERIES

- If the Customer shall fail to pay the Company on the due date any sum payable under a contract for the sale and purchase of Goods, or shall have a receiving order in bankruptcy made against him or make any arrangement with his creditors, or being a body corporate shall have a receiver appointed or if any order shall be made or any resolution passed for winding up the same, the Company may, without prejudice to its other rights, demand immediate payment by the Customer of all unpaid accounts and suspend further deliveries and cancel that contract and any other contract between the Company and Customer without any liability attaching to the customer in respect of such suspension or cancellation and debit the Customer with any loss sustained thereby.

11. INSURANCE

After risk in the Goods shall have passed to the Customer under these Terms and Conditions, the Customer shall insure them and keep them insured to their full replacement or reinstatement value against fire and other risks normally insured against and if the goods shall be damaged or destroyed after risk has passed but before payment in full for them has been made, the Customer shall honour all insurance monies payable to the Company to the extent of monies owing but not paid by the Customer to the Company under these Terms and Conditions.

12. SAFETY

The Customer shall comply fully with all user instructions and safety recommendations issued to the Company in relation to the Goods and the Company shall not be liable to the Customer for any damage, costs or expenses suffered or incurred by the Customer as a result of the Customer failing to do so.

13. WARRANTY

The Company warrants that it will within a reasonable period replace or refund the full purchase price of any Goods which are acceptable by the Company as being defective or not in accordance with the agreed specification within a period of 12 months from dispatch (the warranty period). The Customer's remedies in respect of any claim under the foregoing express warranty or any condition or warranty implied by law or any other claim in respect of the Goods or any workmanship in relation to them (whether or not involving negligence on the part of the Company) shall in all cases be limited to replacement or refund of the purchase price as aforesaid and any condition or warranty implied by law shall cease to apply after the expiry of the warranty period. The Company shall not in any circumstances be liable for any damages, compensation, costs expenses, losses or liabilities, whether direct or consequential and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law.

14. LIMIT OF LIABILITY

- Notwithstanding anything stated in any quotation or order or acceptance, the Company's maximum aggregate liability under or arising from any contract for the sale of Goods shall be limited to a sum equivalent to the original price for the Goods (exclusive of VAT). All liability in respect of claims (whether arising in contract or negligence or otherwise) for loss of profit and for losses of a consequential or contingent nature howsoever caused are excluded. Nothing in these Terms and Conditions shall exclude the liability of the Company for the fraudulent misrepresentation nor for death or injury attributable to the negligence of the Company or its agents.
- No warranty is given as regards suitability for use.
- The Customer accepts that the limitations and exclusions set out in this Clause are reasonable having regard to circumstance, including the contract price.

15. FORCE MAJEURE

If the performance of any contract for the sale of Goods by the Company shall be delayed by any circumstances or conditions beyond the reasonable control of the Company, the Company shall have the right at its option: (a) to suspend further performance of the contract until such time as the cause of the delay shall no longer be present or; (b) to be discharged from further performance of and liability under the contract and if the Company exercises such right the Customer shall be called upon to pay the contract price less a reasonable allowance for what was not performed by the Company.

16. COPYRIGHT

All the Company's copyright and intellectual property rights in the Goods supplied by the Company to the Customer are and will remain vested in the Company.

17. ENGLISH LAW

- Hypnos Limited makes payments to Hypnos Staff Services Limited (Company No. 07368412) as part of a profit sharing arrangement.
- These Terms and Conditions and any contract between the Company and the Customer are governed by English Law to the exclusive jurisdiction of whose courts the Customer agrees to submit.