

## AB DISTRIBUTORS LTD - CONDITIONS OF SALE

### 1: General:

(a) All Products and/or components sold by A B Distributors Ltd (company number NI 008366) whose registered office is at Unit 4, Silverwood Business Park, 70 Silverwood Road, Lurgan, BT66 6LN to the Purchaser (“**Goods**”) (hereinafter called the "**Company**") shall be purchased strictly subject to these Conditions of Sale.

(b) The buyer of the Goods shall be hereinafter, known as the "**Purchaser**".

(c) “**Contract**” means any contract between the Company and the Purchaser for the sale and purchase of the Goods, incorporating these Conditions of Sale.

(d) Any terms or conditions in the Purchaser’s order shall not form part of any contract between the Company and the Purchaser unless accepted by the Company in writing.

(e) Carriage terms are in accordance with prices ruling at the date of despatch of Goods by the Company.

### 2: Prices:

Orders are accepted on the basis of prices ruling at the date of despatch of the Goods by the Company. This applies to back orders. The Company reserves the right to increase its prices at any time. All prices are exclusive of VAT and same together with carriage when charged shall be borne by the Purchaser. The Company shall use its reasonable endeavours to notify the Purchaser of any increase in prices. The Purchaser may cancel the contract in writing within 24 hours of the notification of the price alteration.

### 3: Delays and Non-Delivery:

(a) The Company will use reasonable endeavours to keep to agreed delivery dates. Delays in delivery of the Goods shall not entitle the Purchaser to refuse to take delivery of the Goods or cancel the Contract. The Company shall have no liability for any failure or delay in delivering an order to the extent that such failure or delay is caused by the Purchaser’s failure to comply with its obligations under these Conditions of Sale.

(b) The Company shall not be liable for any loss caused directly or indirectly by any delay in delivery of the Goods. Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro-rata Contract rate against any invoice raised for such Goods.

(c) If the Company agrees to deliver the Goods to the Purchaser at an address specified by the Purchaser (“**Delivery Location**”)

(i) The Purchaser will be liable for the cost of carriage (including packaging) unless the contrary is agreed in writing;

(ii) The Purchaser will be responsible for off-loading and collecting the Goods once delivered to the said address. If the Purchaser is not available to receive the Goods on the agreed delivery date, the Goods shall be returned to the Company, and re-delivery will be subject to a further delivery charge; and

(iii) The Company shall decide upon the means of transport at its absolute discretion.

(d) Delivery of an order shall be completed when the Company places the order at the Purchaser’s disposal at the Delivery Location.

(e) Notwithstanding acceptance of the Purchaser’s order, the Company gives no warranty or undertaking that the Goods are available and reserves the right to cancel the Contract if it should be unable to effect the order within 45 days of acceptance for any reason whatsoever and if such a case the Company shall not be liable to compensate the Purchaser.

### 4: Damage in Transit & Shortages:

On delivery the Goods must be checked against the delivery note, which shall be signed by or on behalf of the Purchaser. Such signature is an acknowledgement that all the Goods have been received in good condition and order. The Company will accept no responsibility for damage in transit or shortages unless same are noted on the delivery note before signature, and notified in writing to the Company sales office within 48 hours of delivery.

**5: Trading Terms:**

(a) The Goods must be paid for in full without deduction in respect of alleged disputes or counter claims in accordance with the terms specified by the Company from time to time and if no date of payment has been specified within 30 days of the date of delivery.

(b) Should payment of any invoice not be received by the Company (in cash or clear funds) by the due date, the Company shall be entitled, without limiting any other rights or remedies it may have, to:

(i) Charge interest on the overdue amount at a rate of 3% per annum above the Bank of England base rate. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgement. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and

(ii) Suspend credit facilities offered to the Purchaser.

(c) Any invoice queries shall be communicated in writing to the Company within 10 working days of the invoice date.

(d) Proof of delivery shall only be retained by the Company for 90 days after the invoice date.

(e) A charge of £25 (plus a further administration charge of £25, at the discretion of the Company) shall be made for all cheques and direct debits returned from the Company's bank.

**6: Return of Goods:**

Where the Goods have been correctly supplied in accordance with the Contract and are not materially defective they will not be accepted for return by the Company unless the Company has given its prior written agreement. In such event, a twenty per cent handling charge will be made by the Company and the Goods must be returned to the Company carriage paid and in their original packing. Goods not in their original packaging will not be accepted for return by the Company.

**7: Guarantee:**

Where a guarantee is given by the manufacturer or other supplier of the Goods or by a manufacturer or other supplier of a part or component of the Goods, the Company will use its reasonable endeavours to pass the same to the Purchaser and assist the Purchaser to get the benefit of same from such manufacturer or other supplier but to extent permitted by law the Company shall not be liable on foot of such guarantee.

**8: Risk and Reservation of Title:**

(a) The risk in the Goods shall pass to the Purchaser on delivery to the Delivery Location. Goods and all other sums which are or which become due to the Company from the Purchaser for the sale of Goods or on any account. For the avoidance of doubt, in the event that the Purchaser fails to pay the Company for any Goods in accordance with the terms hereof, the Company shall be entitled, without prejudice to any other right to which it may be entitled, to enter the Purchaser's premises and recover any showroom goods at the Purchaser's premises supplied by the Company and apply the value of the showroom goods towards the outstanding amount owed to the Company.

(b) All Goods shall remain the property of the Company until the Company has received payment in full (in cash or clear funds) for such Goods and all other sums which are or which become due to the Company from the Purchaser for the sale of Goods or on any account. For the avoidance of doubt, in the event that the Purchaser fails to pay the Company for any Goods in accordance with the terms hereof, the Company shall be entitled, without prejudice to any other right to which it may be entitled, to enter the Purchaser's premises and recover any showroom goods at the Purchaser's premises supplied by the Company and apply the value of the showroom goods towards the outstanding amount owed to the Company.

(c) Until such time as the ownership of the Goods passes to the Purchaser, the Purchaser shall:

(i) Securely and safely store the Goods (at no cost to the Company) separately from all other goods of the Purchaser or any third party in such a way that they remain readily identifiable as the Company's property.

(ii) Be liable to the Company for all damage howsoever caused to the Goods

- (iii) Maintain the Goods in satisfactory condition and insure the Goods to their full value against loss or damage from whatsoever cause and if requested by the Company have the Company's interest noted on the appropriate insurance policy.
- (iv) Indemnify and keep indemnified the Company against all damage caused to the Goods, and]
- (v) Hold the Goods on a fiduciary basis as the Company's bailee.

(d) So long as any monies are owing by the Purchaser to the Company in respect of the Goods or any other account whatsoever, the Purchaser notwithstanding the provisions of the immediately preceding paragraphs (b) and (c) hereof, may sell, hire, pledge or otherwise dispose of the Goods in a bona fide manner in the normal course of business and the Company, in addition to all other rights, shall have the right to trace the proceeds of such resale, hire, pledge or other disposition to the fullest extent permitted by law and such proceeds whether represented by monies or other products taken in part exchange or otherwise resulting from such transaction when received by the Purchaser shall be held by him as trustee and bailee respectively for the Company. The Purchaser shall be solely liable for the payment of all taxes, which may arise on such resale, hire, pledge or other disposition.

(e) Pending the passing of ownership of the Goods to the Purchaser, the Company may without prejudice to any pre-existing liability of the Purchaser to the Company, terminate the Contract at any time by notice to the Purchaser and on such termination the Company shall be entitled forthwith to take possession of the Goods and the Purchaser shall be deemed to have irrevocably given the Company the right and power to enter into and upon any premises where the Goods may be to recover same.

#### **9: Warranties and Conditions:**

The following terms set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Purchaser in respect of: (i) any breach of the Contract; (ii) any use made by the Purchaser of any of the Goods, or any part thereof; and (iii) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

All conditions and warranties whether expressed or implied by law or otherwise, including as implied by the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982, are hereby expressly excluded to the extent permitted by law.

(b) The Company shall not be under any liability whatever for consequential loss suffered by the Purchaser.

(c) Nothing in these Conditions of Sale excludes or limits the liability of the Company: (i) for death or personal injury caused by the Company's negligence; or (ii) under Article 5(3) of the Consumer Protection (Northern Ireland) Order 1987; or (iii) for fraud or fraudulent misrepresentation.

(d) Subject to the immediately preceding paragraphs (a) and (b) hereof, the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price payable by the Purchaser for the Goods.

#### **10. Force Majeure**

The Company (or any person acting on its behalf) shall not have any liability or responsibility for failure to fulfil any obligation under the Contract. So long as and to the extent to which the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of acts, events, omissions or non-events beyond the Company's control, including acts of God, riots, war, acts of terrorism, fire, flood, storm, earthquake any disaster, unavailability of raw materials or delay caused by a sub-contractor.

#### **11. Governing Law**

The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Northern Irish law and the parties irrevocably submit to the exclusive jurisdiction of the Northern Irish courts.