

Terms & Conditions 2018

1. CONDITIONS OF SALE DEFINITIONS.

- In these Conditions, the following shall have the following meaning:
- "The Company" BDM Business Solutions Limited, or trading styles of "BDM ArcScan" or "BDM Technology" and also, where the context permits its assignment, any sub-contractor for the Company.
 - "Contract" means a specific contract written for an order, or the Company's sales order acknowledgement, or the Company's invoice issued before or at the time of supply of goods.
 - "Goods" means articles, services or any of them described in the Contract.
 - "The Buyer" means the person, firm or company with whom the Contract is made by the Company whether directly or indirectly through an agent or factor who is acting for, instructed by, or whose actions are deemed by the Company to be ratified by such person, firm or company.
 - "Company's Premises" means the premises mentioned in the Company's quotation or other contractual document or if not so mentioned means the Company's premises at 1 Darin Court, Crownhill, Milton Keynes, Buckinghamshire, MK8 0AD.
 - BDM Business Solutions Limited will invoice on a PROFORMA basis for all new clients on their first 3 orders and a credit reference check will be made on all clients. Once the first 3 orders are placed, then credit may be offered, based on the client's credit reference. If credit is not given, then a director's guarantee may be required.
 - All special offer prices and PR priced sales will be supplied subject to the agreement of a PR review and Testimonial Review, which BDM can use for its marketing purposes.

2. GENERAL

- These Conditions shall be incorporated in all Contracts of the Company to sell Goods and the provisions of these Conditions shall prevail at all times unless expressly varied in writing and signed by a director on behalf of the Company.
- Any concession made or latitude allowed by the Company to the Buyer shall not restrict the right of the Company under the Contract.
- If in any particular case any of these Conditions shall be held to be invalid or shall not apply in the Contract the other Conditions shall continue in full force and effect.

3. ORDERS

- Notwithstanding that the Company may have given a detailed quotation no order shall be binding on the Company unless and until it has been accepted in writing by the Company.
- The Company's catalogues, brochures, leaflets, or correspondence are not binding and reasonable variations may be made without notice and Goods so varied shall be accepted as complying with this Contract.

4. PRICES

- The prices payable for Goods shall, unless otherwise stated by the Company in writing and signed on its behalf, be the list price of the Company current at the date of dispatch and in the case of an order for delivery by instalments the price payable for each instalment shall be the list price for the Company current at the date of dispatch of such instalment unless otherwise expressly stated to be firm for a period.
- Unless otherwise expressly stated to be firm for a period the Company's prices are subject to variation in wages, materials or other costs since the date of the order. The Company accordingly reserves the right to adjust the invoice price by the amount of any increase or decrease in such costs after the price is quoted and the invoice so adjusted shall be payable as if it were the original Contract price.
- Unless otherwise stated all prices are exclusive of expenses which will be charged at the rates appropriate at the time.
- All prices are exclusive of Value Added Tax and this will be charged at the applicable rate.

5. ADDITIONAL COSTS

- General – The Buyer agrees to pay for any loss or extra cost incurred by the Company through the Buyer's instructions or lack of instructions or through failure or delay in taking delivery or through any act or default on the part of the Buyer, its servants or employees.
- Cancellation – The Company reserves the right to charge the following cancellation fee:
 - Cancellation of work scheduled – more than seven days' notice – charge 40% of cost.
 - Cancellation work scheduled – less than seven days' notice – charge per day 60% of cost.
 - Cancellation of work scheduled – less than two days' notice – charge per day 80% of cost.
- Re-scheduling – The Company reserves the right to charge the following Re-scheduling fees:
 - Re-scheduling – more than seven days' notice – charge 20% of cost.
 - Re-scheduling of work – less than seven days' notice – charge per day 30% of cost.
 - Re-scheduling of work – less than two days' notice – charge per day 50% of cost.
- Discounts – The price quoted, net of any discount, applies only if payment is made in accordance with the Contract. In the event of late payment, the Company reserves the right to invoice the Buyer the discount element applied in the Contract. The discount element invoice is due for payment immediately upon receipt.

6. TERMS OF PAYMENT

- Unless otherwise agreed by the Company in writing, payment shall be due ON DEMAND but in any case, within 30 days of the date of the invoice save that payment shall become due in any event forthwith upon the occurrence of any of the events referred to in Condition 15 hereof. All invoice discounts are not available on special offer prices or marketing incentive prices.
- All counter readings will be obtained by BDM Business Solutions Limited on or around but not exceeding the last day of the calendar month to be invoiced. A £10 penalty charge will be applied to client's monthly counter reading invoices for all counter readings not supplied, when requested, by the end of the month that they fall within.
- If the Goods are delivered by instalments the Company shall be entitled to invoice each instalment as and when delivery thereof has been made and payment shall be due in respect of each instalment whereof delivery has been made notwithstanding non-delivery of other instalments or other defaults on the part of the Company.
- If upon the terms applicable to any order the price shall be payable by instalments or if the Buyer has agreed to take specified quantities of Goods at specified times a default by the Buyer of the payment of any due instalment or the failure to give delivery instructions in respect of any quantity of Goods outstanding shall cause the whole of the balance of the price to become due forthwith.
- The price of the Goods shall be due in full to the Company in accordance with the terms of the Contract and the Buyer shall not be entitled to exercise any set-off lien or any other similar right or claim.
- The time of payment shall be of the essence of the Contract.
- In the event of queries arising from invoice details, such details must be notified to the Company in writing within 15 days of invoice date. Failure to comply with this condition will render the invoice payable in full when due.
- Without prejudice to any other rights it may have, the Company is entitled to charge interest at the rate which is published at that time by the government (www.gov.uk/late-commercial-payments-interest-debt-recovery) on overdue payments of the price of the Goods/Services or the price of any instalments thereof.
- Such interest to run from the due date for payment until payment in full is received whether before or after judgement.

- In addition, reminder letters will be sent with a copy of the invoice and any statement on 30-days and will be subject to charges as outlined in section 25. Reminder Letters. This is in addition to the late payment fees as detailed in section 6. Payment terms, note 8.
- Remittance advice notes are required against all payments made to allow correct allocation of payment to the customer's account. Failure to include remittance advice notes will see any payment(s) made allocated to the oldest invoice(s) showing on the company's payment system.

7. PATENTS

- The Buyer shall indemnify the Company against all costs, claims and damages incurred or the threatened arising out of any alleged infringements of patents, trademarks, registered designs, design right or copyright occasioned by the manufacture or sale of the Goods made to the specification or special requirements of the Buyer.

8. DELIVERY

- The period for delivery shall be the period within which the Goods are intended to be dispatched from the Company's Premises and shall be calculated from the time of the receipt by Company of the Buyer's order or from the receipt of all necessary information to enable the Company to manufacture or procure the manufacture of the Goods whichever shall be the later and the Buyer shall take delivery of the Goods within that period.
- All times or dates given for a delivery of the Goods are given in good faith but without any responsibility on the part of the Company. Time of delivery shall not be of the essence of the Contract nor shall the Company be under any liability for any delay beyond the Company's control.
- When the Goods are handed to a carrier for carriage to the Buyer or to United Kingdom port for the export any such carrier shall be deemed to be an agent of the Company and not the Buyer for the purposes of Sections 44, 45 and 46 of the Sale of Goods Act 1979.
- Section 32(3) of the Sale of Goods Act 1979 shall not apply to Goods sent by the Company.
- No liability for non-delivery loss or damage to the Goods occurring prior to delivery will attach to the Company unless claims to that effect are notified in writing by the Buyer to the Company within 15 days and in the case of claims for non-delivery loss or damage with a copy of the carrier if the Company's own vehicles have not been used to deliver the Goods.
- In the event of a valid claim for non-delivery loss damage or non-compliance with the contract the Company undertakes at its option either to re-supply or replace the Goods at its expense but shall not be under any further or other liability to any person in connection with such non-delivery, loss, damage, or non-compliance.
- If the Buyer shall fail to give notice in accordance with clause 8(5) above, the Goods shall be deemed to be in all respects in accordance with the Contract and without prejudice to earlier acceptance by the Buyer it shall be bound to accept and pay for the same accordingly.
- If for any reason the Buyer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, the Company may at its sole discretion without prejudice to its further rights to the Goods at the risk of the Buyer and take any reasonable steps to safeguard and insure them at the cost of the Buyer, provided that the Buyer shall be immediately informed thereof.
- The Company shall have the right to make delivery by instalments of such quantities and at such intervals as it may decide, and any express provisions as to instalments in the contract shall be in addition to and not in derogation to this right.
- Unless otherwise stated prices are exclusive of carriage and insurance to the Buyer's premises and delivery shall take place at the Buyer's premises.
- In the event of queries arising at the time of delivery such queries must be notified in writing to the Company within 15 days of delivery date. Failure to comply with this Condition will render the invoice payable in full when due.

9. RETURNS

- Goods supplied in accordance with the Contract cannot be returned without the Company's prior written authorisation. Duty authorised returns shall be sent to the Company's premises at the Buyer's expense.

10. PASSING OF TITLE AND RISK

- From the time of delivery, the Goods shall be at the risk of the Buyer who shall be solely responsible for their custody and maintenance but, unless otherwise expressly agreed in writing, the Goods shall remain the property of the Company until all payments under the Contract have been made in full and unconditionally.
- Until title to the Goods as passed under Clause 10(1) above the following shall apply:
 - The Buyer shall keep the Goods separate and identifiable from all other Goods in its possession as Bailee for the Company. In the event of any resale by the Buyer of the Goods the Company shall (without prejudice to the rules of equity relating to tracing) be beneficially entitled to the proceeds of sale or other disposition thereof so that such proceeds or any claim thereof shall be held on trust for the Company by the Buyer who will stand in a strictly fiduciary capacity in respect thereof.
 - The Company shall have the power to re-sell the Goods; such power being additional to (and not in substitution for) any other power of sale arising by operation of law or implication or otherwise and for such purpose the Company and its servants and agents may forthwith enter upon any premises or land occupied or owned by the Buyer to remove the Goods.
- The Buyer shall at all times keep the Goods comprehensively insured against loss or damage by accident, fire, theft and other risk usually covered by insurance in the type of business for which the Goods are for the time being used in an amount at least equal to the balance of the price for the same from time to time remaining outstanding.

11. CONDITIONS AND WARRANTIES

- The Contract shall not constitute a sale by description or sample.
- Any conditions or warranties (whether express or implied by statute common law or arising from conduct or a previous course of dealing or trade custom or usage) as to the quality of the Goods or their fitness for any particular purpose made known expressly or by implication to the Company or as to the correspondence of the Goods with any description or sample are hereby expressly negated.

12. DEFECTIVE GOODS

- In substitution of the rights which the Buyer would or might have but for these conditions the Company undertakes in the case of Goods supplied by the Company that if within the period of 90 days from the date of despatch of the Goods by the Company a serious defect in materials or workmanship appears in them it will at its own discretion either credit to the Buyer in full the price paid by the Buyer to the Company for them or repair them or supply a replacement of the Goods free of charge at the place of delivery specified by the Buyer for the original Goods provided that in any case they have been accepted and paid for.
 - The Company's obligations contained in the sub-clause 12(1) above are subject to:
 - That the Goods are used in an appropriate manner and as prescribed in the operating instructions (if any).
 - Faulty parts being returned to the Company at the Buyer's expense if so requested.
 - The Goods not having been modified or repaired otherwise than by the Company or otherwise interfered with.

- The Buyer making no further use of the Goods which are alleged to be defective after the time when the Buyer discovers or ought to have discovered that they are defective.
- When the Company's liability under this Condition 12 can be fulfilled by the supply of a replacement part it will arrange for delivery and undertake liability for loss or damage in transit or otherwise to the same extent as for the Buyer's original order. Any other costs involved must be borne by the Buyer. In order to exercise its right under this Condition 12 the Buyer shall inform the Company within seven days of the date when such defect appeared or ought to reasonably have been discoverable and shall return the defective Goods carriage paid to the Company's premises.
- Nothing herein shall impose any liability upon the Company in respect of any defect in the Goods arising out of the acts, omissions, negligence or default of the Buyer, its servants or agents including in particular but without prejudice to the generality of the foregoing any failure by the Buyer to comply with any recommendations of the Company as to storage and handling of the Goods.
- When the Goods are for delivery by instalments, any defects in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Buyer shall be bound to accept delivery thereof.
- Nothing herein shall have the effect of excluding or limiting the liability of the Company:
 - For death or personal injury resulting from the negligence of the Company or its employees so far as the same is prohibited under United Kingdom statute.
 - Under the Consumer Protection Act 1980 Part 1.

13. BUYERS DRAWINGS

- The Company shall not be liable for imperfect work caused by any inaccuracies in any drawings, bills of quantities or specifications supplied by the Buyer.

14. CONSEQUENTIAL LOSS

- The Company shall not be liable for any costs, claims or damages or expenses arising out of any tortious act or omissions or any breach of Contract or statutory duty calculated by references to profits, income production or accruals or loss of such profits, or by references to accrual of such costs, claims, damages or expenses on a time basis.

15. DEFAULT OR INSOLVENCY OF BUYER

- If the Buyer shall be in breach of any of its obligations under the Contract or if any distress or execution shall be levied on the Buyer's property or assets or if the Buyer shall make or offer to make any arrangement or composition with its creditors or if any bankruptcy petition be presented against him or if any Resolution or Petition to wind up such Buyer shall be passed or presented to it, a receiver, administrative receiver or administrator of the whole or part of the Buyer or its associates' undertakings, pursuant to the Contract shall be appointed, the Company in its discretion and without prejudice to any other Contract between the Company and the Buyer may (without prejudice to the Company's right subsequently to determine the Contract for the same cause should it so decide) by notice in writing suspend further deliveries of Goods until any defaults by the Buyer be remedied.

16. LIMITATION OF LIABILITY

- Subject as herein provided the aggregate of the Company hereunder in contract tort or otherwise shall be in no event exceed the purchase price of the Goods.

17. REPRESENTATIONS

- No statement description information warranty condition or recommendation contained in any catalogue price list advertisement or communication or made verbally by any of the agents or employees of the Company shall be construed to enlarge, vary or override in any way of these Conditions.

18. FORCE MAJEURE

- The Company shall be entitled to delay or cancel delivery or to reduce the amount delivered if it is prevented from or hindered in or delayed in manufacturing, obtaining or deliver the Goods by normal route or means of delivery through any circumstances beyond its control including but not limited to strikes, lock-outs, accidents, war, fire, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from normal source of supply.

19. CANCELLATION/RE-SCHEDULING

- Except as provided in Conditions 15 and 18 hereof Contracts may not be cancelled except by agreement in writing of both parties and upon the payment to the Company of such amount as may be necessary to indemnify the Company against all loss resulting from the said cancellation. Please refer to section 5 (additional costs) for charges in respect of cancellation/re-scheduling. All contracts can be transferred without prior notice.

20. SUB-CONTRACTING

- The Company may assign the Contract with the Buyer or Sub-Contract the whole or any part thereof to any Person, Firm or Company.

21. TERMS OF PURCHASE

- All Purchases made by or on behalf of BDM Business Solutions Limited shall be paid on a Nett Monthly basis.

22. HEADINGS

- The headings in these Conditions are intended for reference only and shall not affect their Construction.

23. PROPER LAW

- The Contract shall in all respects be governed by English Law and shall be deemed to have been made in England and the Buyer and the Company agree to submit to the non-exclusive jurisdiction of the English Courts.

24. DATA PROTECTION ACT

- The Company will make searches with a credit reference agency, which will keep a record of that search and will share that information with other businesses. The Company may also make enquiries about the principal directors with a credit reference agency.

25. REMINDER LETTERS

- First Reminder letters will be sent out to all clients on 30 Days from the date of the invoice, with an admin fee of £5.00 applied to the account.
- Second Reminder letters and statements will be sent on 60 days on all overdue invoices with an admin fee of £10.00 applied to the account.
- Third reminder letters and statements will be sent on invoices which are 90 days overdue, giving 7 days for the payment to be made with an admin fee of £15.00 applied to the account.
- All invoices which are over 90 days will be referred to our legal department, and a hold will be placed on the account preventing the sale of any additional goods or items supplied as part of an on-going service contract such as consumables (toner, ink) or equipment maintenance/service callouts.

All terms and conditions are correct and effective at time of going to press on Friday 1st October 2018 and supersede any current BDM Business Solutions Limited terms and conditions currently in place.

E&OE. TERMS AND CONDITIONS REFERENCE: BDMT&C18/01

Updated and Approved on Tuesday January 2nd 2018 by:

The Board of Directors BDM Business Solutions Limited

Tel: 01908 410 414 Fax: 01908 410 072

Email: enquiries@bdm-technology.com