



## Standard Terms and Conditions

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### 1 Interpretation

1.1 In these Conditions:

"Buyer" means the person or company whose order for the Goods is accepted by the Seller "Goods" means the goods that the Seller is to supply in accordance with these Conditions "Seller" means MadNat, 10 Sandfield Lane, Newbold on Stour, Warwickshire CV37 8UN, United Kingdom "Conditions" means the terms and conditions of sale set out in this document and include any special terms and conditions agreed in writing between the Buyer and the Seller "Contract" means the contract for the purchase and sale of the Goods

1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 2 Basis of the sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods and (subject to any variation under condition 2.2) the Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order or similar document).

2.2 Any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by an authorised representative of the Seller.

2.3 Each order for Goods by the Buyer from the Seller shall be deemed to be an offer by the Buyer to purchase Goods subject to these terms and conditions.

2.4 Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these terms and conditions.

2.5 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.6 All drawings, descriptive matter, specifications and advertising issued by the Seller or the manufacturer of the Goods and any descriptions or illustrations contained in the Seller's or manufacturer's catalogues or brochures are issued or published for the purpose of giving an approximate idea only of the Goods described in them. They will not form part of the Contract.

2.7 If the Goods comprise of any software or equipment onto which software has been already installed then the Buyer shall comply with and use the software subject to the terms of any license provided by the owner of such software.

### 3 Orders and Specifications

3.1 If orders are given by the Buyer verbally by telephone the record of such order shall be the record made by the Seller of the verbal order, which will be conclusive and binding as to the type, price and quantity of the product involved and the delivery point.

3.2 The Buyer may place orders via the Internet by e-mailing the Seller its order.

3.3 The Seller reserves the right to refuse any order made by the Buyer, provided that the Seller shall use reasonable endeavours to inform the Buyer within 7 days of receipt of the Buyer's order if the Seller intends to refuse the order.

3.4 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable safety or other statutory requirements or to make any changes which do not materially affect the quality or performance of the Goods.

3.6 No order which has been accepted by the Seller (either expressly or impliedly by not expressly refusing the order within 7 days of receipt of the order) may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit) costs (including the cost of all labour and material's used), damages, charges and expenses incurred by the Seller as a result of cancellation.

### 4 Price of the goods

4.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time the Seller may alter them without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (including, without limitation any change in delivery dates, quantities or specifications for the Goods which are required by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions).

4.3 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Seller shall be liable to pay charges for transport, packaging, loading and unloading and insurance when it is due to pay for the Goods.

4.4 The price is exclusive of value added tax or any other applicable tax which the Buyer shall be liable to pay to the Seller.

### 5 Terms of Payment

5.1 The Buyer shall pay the price of the goods within 30 days of the date of the Seller's invoice, notwithstanding that property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.2 The Buyer may pay the Seller for the Goods by credit card, telegraphic transfer (BACS) or cheque.

5.3 No payment will have been deemed to have been received until the Seller has received cleared funds.

5.4 The Seller may appropriate any payment made by the Buyer to the Seller to such of the Goods as the Seller thinks fit despite any purported appropriation by the Buyer.

5.5 The Buyer shall make all payments due under this Contract without any deduction whether by way of set-off, counterclaim or otherwise.

5.6 All payments payable to the Seller under this Contract shall become due immediately upon termination of this Contract, despite any other provision.



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5.7 If the Buyer fails to make payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled (without prejudice to its other rights and remedies) to:

5.7.1 Cancel the contract or suspend any further deliveries to the Buyer under any order; and

5.7.2 Charge the Buyer interest (both before and after judgement) on the amount unpaid at the annual rate of 2% above the Royal Bank of Scotland plc's base rate from time to time until payment is made in full.

### 6 Deliveries

6.1 Delivery of the Goods shall be made ex-works (Incoterms 1990).

6.2 Any dates quoted for delivery of the Goods are approximate only and may not be made of the essence by notice. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 The Seller shall not be liable for any loss (including loss of profit), costs, damages or expenses caused directly or indirectly from any delay in delivery of the Goods howsoever caused, nor unless such delay exceeds 180 days will any delay entitle the Buyer to terminate or rescind the Contract.

6.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for the delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.4.1 Store the Goods at the risk of the Buyer until actual delivery and charge the Buyer for reasonable costs (including insurance) of storage; or

6.4.2 Following written notice to the Buyer, sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price under the Contract.

6.5 The Buyer will provide at its expense at the place of delivery of the Goods adequate and appropriate equipment and labour for loading or off-loading the Goods and will indemnify the Seller against any liability and expense caused by the Buyer's failure to do so (including for any personal injury to the Seller's employees, agents or sub-contractors).

### 7 Risks and Property

7.1 The Goods shall be at risk of the Buyer as soon as delivery has taken place.

7.2 Notwithstanding delivery and the passing of risk in the Goods, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods (together with any interest, if applicable, payable in respect thereof) and all other sums which are or which become due to the Seller from the Buyer on any account.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and property stored, protected and insured and identified as the Seller's property. Until that time the Buyer is entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, property stored, protected and insured.

7.4 The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

7.5 The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are, in order to inspect them or, if the Buyer fails to pay sums due to the Seller by the due date or if the Buyer is entitled to terminate the Contract under condition 12 and any sums remain outstanding to the Seller, recover them.

7.6 Notwithstanding the repossession of the Goods, the Buyer shall remain liable to pay to the Seller an amount equal to all losses, costs, damage and expenses incurred by the Seller directly or indirectly as a result of the Buyer's default.

7.7 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

### 8 Acceptance of Goods by the Buyer

8.1 The Buyer shall inspect the Goods immediately upon their arrival at its premises and shall within 3 days of their arrival notify the Seller if the Goods are damaged or do not conform to the specification agreed in writing between the parties prior to delivery (as set out in the Seller's quotation or Buyer's order or specification). If no such notice is received, the Goods shall be deemed to have been supplied in accordance with the Contract and to have been accepted by the Buyer.

8.2 Where the Buyer gives notice to the Seller under condition 8.1 the Buyer shall preserve the Goods intact and as delivered for a period of 14 days after receipt by the Seller of the notice during which period the Seller or its representative may attend the Buyer's premises to investigate the complaint.

8.3 If the Buyer fails to comply with conditions 8.1 or 8.2 it shall be deemed to have waived all or any claims, actions or rights or remedies it may have in respect of the non-conformity of the Goods to the Contract.

8.4 If the Seller finds a discrepancy in the amount of Goods delivered above or below the amount ordered, the Buyer will not be entitled to reject the Goods, but the Seller will make such further deliveries or collections as shall result in the correct quantity having been delivered.

8.5 If the Seller finds that the Goods are damaged or do not conform to the Contract, the Seller shall at its option replace or repair the Goods, or take back the Goods and refund the Buyer with the price, provided that the Seller shall not be under this obligation if the damage or non-conformity results from:

8.5.1 A defect in the quality, workmanship, manufacture or materials of the Goods;

8.5.2 An act or omission of the Buyer; or

8.5.3 Damage to the Goods whilst the Goods are at the Buyer's risk.

### 9 Quality

9.1 The Seller does not manufacture the Goods and shall not be liable for any defect in the workmanship or materials of the Goods or otherwise in respect of the quality or fitness for the purpose of the Goods.



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9.2 Where the Goods are supplied with a manufacturer's warranty the Seller shall endeavour to transfer the benefit of the manufacturer's warranty to the Buyer, if requested by the Buyer.

9.3 If the Buyer discovers any defect in the quality, workmanship, manufacture or materials of the Goods it may return the Goods to the Seller and the Seller shall forward them to the manufacturer requesting that the defect is remedied, the Goods replaced or the price of the Goods refunded provided that:

9.3.1 The Goods must be returned to the Seller within 30 days of the date of delivery;

9.3.2 The Seller shall not be obliged to forward the Goods to the manufacturer if the Seller is of the reasonable opinion that the manufacturer would not accept the Goods or give any remedy, for whatever reason;

9.3.3 The Goods shall remain at the Buyer's risk after the Goods leave the Buyer's premises and whilst they are at the Seller's premises and the Buyer shall be liable to pay the Seller's reasonable costs of delivery in connection with this Condition 9.2 if requested by the Seller;

9.4 The Seller does not warrant that the manufacturer will give any remedy or an adequate remedy if the procedure in Condition 9.2 is followed and does not warrant that any other claim by the Buyer under a manufacturer's warranty will be successful. The Seller excludes liability for any losses, costs or expenses arising in connection with the manufacturer refusing to provide a remedy (or an adequate remedy) in respect of the Goods or otherwise in connection with any claim or failure to make a claim under a manufacturer's warranty or failure by the manufacturer to abide by the terms of its warranty.

### 10 Limitation of liability

10.1 The following provisions and the provisions of conditions 8 and 9 set out the entire liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

10.1.1 Any breach of these terms and conditions; and

10.1.2 Any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are excluded from the Contract.

10.3 Nothing in these terms and conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or for fraudulent misrepresentation.

10.4 Subject to conditions 10.2 and 10.3:

10.4.1 The Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the price of the Goods supplied or to be supplied under the Contract; and

10.4.2 the Seller shall not be liable to the Buyer by reason of any representation or any implied or express warranty, condition or term or any duty at law for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (whether caused by the negligence of the Seller, its employees, agents or sub-contractors) which arise out of or in connection with the Contract.

10.5 The Buyer shall indemnify the Seller against all liability, actions, proceedings, costs, claims, damages or demands in any way connected with this Contract brought or threatened to be brought against the Seller by any third party except to the extent the Seller is liable to the Buyer in accordance with these terms and conditions.

### 11 Force Majeure

11.1 The Company shall not be liable to the Buyer in any manner or be deemed to be in breach of this Contract because of any delay in performing or any failure to perform any of the Company's obligations under this Contract if the delay or failure was due to any cause beyond the Company's reasonable control.

11.2 Without prejudice to the generality of condition 11.1 the causes beyond the Company's reasonable control shall include governmental actions, war or threat of war, national emergency, riot, civil disturbance, sabotage or requisition, Act of God, fire, explosion, flood, epidemic or accident, import or export regulations or embargoes, labour disputes not including disputes involving the Company's work-force, inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour.

### 12 Insolvency of Buyer

The Seller shall be entitled to terminate the Contract forthwith if:

12.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or has a receiver, manager, administrator, or administrative receiver appointed over its undertaking or any part thereof or a resolution is passed or petition presented to any Court for the winding-up of the Buyer or (being an individual or firm) the Buyer becomes bankrupt or (being a Company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction);

12.2 And encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer;

12.3 The Buyer ceases, or threatens to cease, to carry on business; or

12.4 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly. The termination of the Contract howsoever arising shall be without prejudice to the rights and duties of either the Buyer or the Company accrued prior to termination.

### 13 General

13.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

13.4 The Contract shall be governed by the laws of England and subject to the jurisdiction of the English Courts.

13.5 The Seller may assign, license or sub-contract all or any part of its rights or obligations under this Contract without the Buyer's consent.



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13.6 This Contract is personal to the Buyer who may not assign, license or sub-contract all or any of its rights or obligations under this Contract.

### **14 Communications**

14.1 All communications between the parties about this Contract must be in writing and delivered by hand, sent by pre-paid first class post, by facsimile transmission or by e-mail to the relevant party's registered office or such other address as notified to the other party.

14.2 Communications shall be deemed to have been received:

14.2.1 If sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and public holidays) after posting (exclusive of the day of posting);

14.2.2 If delivered by hand, on the day of delivery;

14.2.3 If sent by facsimile transmission or e-mail on the next day (excluding Saturdays, Sundays and public holidays) following the day on which the communication was sent.