

Prosis Ltd. General Terms and Conditions of Trading

1 DEFINITIONS

- 1.1 **'Seller'** means Prosis Ltd. whose Company Number is 07828469 and whose registered office is 17 Primrose Way, Chippenham, Wiltshire, SN14 6XW.
- 1.2 **'Business Day'** means a day, other than a Saturday or Sunday, on which banks are open for business in London.
- 1.3 **'Buyer'** means the person, firm, company, Government body placing an order with the Seller.
- 1.4 **'Goods'** means any goods, materials, equipment and/or services which are the subject of the Buyer's order, and which are to be supplied to the Buyer by the Seller under these Terms and Conditions.
- 1.5 **'Contract'** means the contract for the supply of Goods formed by the Seller's acceptance (which, however made or communicated, shall be deemed to be made subject to these Terms and Conditions) of the Buyer's confirmation of order.
- 1.6 **'Specification'** means the document supplied by the Seller to the Buyer which details the works to be undertaken and/or the details of equipment and positions in which the same is to be installed at a specified location or site.

2 FORMATION OF CONTRACT

- 2.1 All Goods sold by the Seller are sold subject to these Terms and Conditions and these Terms and Conditions together with the Specification and Quotation supplied to the Buyer by the Seller shall be the sole terms and conditions of any sale by the Seller to the Buyer unless otherwise expressly agreed in writing by the Seller.
- 2.2 Terms and Conditions on the Buyer's order form or other similar document shall not be binding on the Seller and the Buyer's placing of an order for the Goods shall indicate unqualified acceptance of these Terms and Conditions.
- 2.3 No representative, agent or salesperson has the Seller's authority to vary, amend or waive any of these conditions on behalf of the Seller and no amendment or addition to any of these Conditions shall be deemed to have been accepted unless agreed in writing by the Seller.

3 ORDERS, DELIVERY AND RISK

- 3.1 Orders are accepted by the Seller subject to the availability of Goods for delivery.
- 3.2 If the Buyer agrees to collect or arrange for the collection of the Goods from any of the Seller's premises, delivery shall be affected and risk but not title pass when the Goods are handed to the Buyer or its carrier at the Seller's premises.
- 3.3 Although the Seller will use all reasonable efforts to meet delivery and installation dates, it shall not be liable to the Buyer for any loss or damage whether direct, indirect, or consequential if it is delayed or prevented in whole or in part from delivering or installing the Goods. If the Buyer refuses or fails to take delivery of the Goods on the date of delivery the Seller will be entitled at its discretion to store the Goods at the risk of the Buyer and the Buyer shall in addition to the price paid under Clause 4.1 pay all costs and expenses of such storage and any extra costs of carriage incurred. Time of delivery shall not be of the essence.
- 3.4 The contract price includes the cost of delivery to and installation of the Goods at the Buyer's premises, but any installations carried out at the Buyer's request other than on a usual Business Day will be subject to additional charges.
- 3.5 The Seller reserves the right to deliver in instalments at its discretion.
- 3.6 The Seller's project delivery form must be signed by the Buyer immediately following delivery and/or installation as acknowledgement of delivery and installation and as acknowledgement that, at the time of installation, the Goods functioned properly in all respects.

4 PRICE

- 4.1 The Seller may alter its quoted prices without notice. However, quoted prices are usually valid for a period of 30 days from the date of the quotation. If the quote has been given without the Seller having made a site inspection, the Seller reserves the right to amend any quote to allow for extra work revealed by a subsequent site inspection. If the Buyer requests extra work or Goods of the Seller once on site, the Seller will charge for these at its usual rates and these charges will be added to the quoted price.
- 4.2 The price is exclusive of Value Added Tax, customs duties and all other taxes, duties, and expenses in respect of the Goods all of which shall be added to the price for the Buyer's account unless otherwise stipulated in writing by the Seller.

5 PAYMENT

- 5.1 Unless otherwise agreed in writing by the Seller the Buyer shall make payment for the Goods in pounds sterling within 14 days of the date of invoice. If payment is not received within this period, the Seller's warranty for equipment is reduced to 60 days.
- 5.2 If payment is not made when due for invoiced amounts or monthly accounts then the Seller may, without prejudice to its other rights, charge interest of 8% (both before and after any judgment) at above the base rate of the Royal Bank of Scotland plc calculated on a day-to-day basis on the balance outstanding until payment is made in full.
- 5.3 If the price for the Goods invoiced is a discounted price, then if such discounted price has not been paid in full within 7 days of the date of invoice the Seller may, without prejudice to its other rights, withdraw the discount offered and demand the full price for the relevant Goods.
- 5.4 The Buyer shall not purport to set off or withhold any payments claimed or due to the Seller under this or any other contract.
- 5.5 Where the Buyer has a monthly account with the Seller this will be paid calendar monthly in advance starting from the date the Goods are activated by standing order to the Seller's bank and will continue for a minimum period of 12 months. The duration of contracts is to be agreed at the outset and documented in the Support Contract. After that, the Standing Order may be cancelled upon giving at least 60 days' notice in writing to the Seller of Buyer's intention to cancel. Acceptance of the Support Contract is indicated through acceptance of the Seller providing the service for 30 days. In the event of not receiving a signed contract, these Terms and Condition prevail and are binding.
- 5.6 Without prejudice to the other provisions of this Clause 5 the Seller shall be entitled to terminate this Contract or suspend performance of it if payment for Goods is not made when due or if the Buyer is in breach of any other provision of these Conditions

6 TITLE AND LIEN

- 6.1 Until title in the Goods passes to the Buyer, the Seller may at any time retake, sell or otherwise deal with the Goods the title in which remains in the Seller and for these purposes shall be entitled at any time without notice to enter any premises where those Goods are stored as it reasonably believes them to be stored. The recovery by the Seller of any Goods under this clause shall be without prejudice to its rights to sue for the sale price. The Buyer shall not interfere with any identification marks or serial numbers on the Goods in this or any other context.

- 6.2 The Seller shall retain title to and ownership of the Goods until it has received payment in full of all sums due for all Goods supplied to the Buyer whether under this or any other contract. If payments received from the Buyer are not stated to refer to a particular invoice the Seller may appropriate such payments to any outstanding invoice. Sums payable in respect of Goods shall not be treated as paid until any cheque, bill of exchange or other instrument of payment given by the buyer has been met on presentation or otherwise honoured in accordance with its terms. The Seller may sue for the whole of the price at any time after it has become payable.

7 GUARANTEES, CONDITIONS AND REPRESENTATIONS

- 7.1 Where Goods are supplied without the benefit of any manufacturer's guarantee or warranty the Seller shall at its option replace, repair, or refund the price paid for the Goods proved to its reasonable satisfaction to be defective provided in each case:
 - a. the defect is not one the Buyer should have notified or did not notify to the Seller under clause 3.7; and
 - b. the Buyer as soon as reasonably practicable and in any event within 14 days after delivery informs the Seller of the alleged defect and if requested by the Seller returns the goods carriage paid; and
 - c. no unauthorised alterations, movement or modifications have been made to the alleged defective Goods; and
 - d. the Goods have been stored, maintained, and used in a proper environment, with reasonable care and in accordance with the operation manual supplied by the Seller with the Goods and the Buyer provides full information and documentation to verify compliance with these conditions.

8 LIABILITY

- 8.1 The Seller's liability for any direct physical damage as a result of the Seller's negligence shall be limited to 125% of the price paid (and not refunded) in respect of any single claim and any other liability of the Seller to the Buyer shall be limited to the price paid (and not refunded) for the Goods. The Seller shall have no liability to the Buyer in respect of indirect, special, consequential, or economic loss, loss of contracts, revenue, goodwill, profits, or other benefits whether arising from breach of contract statutory duty, negligence or in any other way.
- 8.2 The Seller makes no representation or warranty that use of the Goods does not infringe the rights of any third party and the Seller accepts no liability in this respect.

9 CANCELLATION AND TERMINATION

- 9.1 This Contract may only be cancelled by the Buyer with the express written consent of the Seller. Notice period of 60 days applies. The Seller is entitled to be paid in full for any losses and costs it incurs because of such cancellation. Where any Goods are returned by the Buyer without the Seller's consent, no credit against the goods will be given by the Seller to the Buyer.
- 9.2 Should the Buyer make default in any payment or otherwise be in breach of the Contract or under any other contract with the Seller or compound with or execute an assignment to the benefit of its creditors or commit any act of bankruptcy or being a company enter into voluntary or compulsory liquidation or allow a receiver or administrative receiver to be appointed over all or any part of its assets or take or allow any similar action in consequence of debt or become insolvent or should the Seller have reasonable cause to believe that any of these events is likely to occur, the Seller may, by notice in writing to the Buyer, without prejudice to any other rights, immediately stop or suspend or cancel any uncompleted part of the Contract or stop any Goods in transit or require payment in advance or satisfactory security for further deliveries under the Contract.

10 FORCE MAJEURE

- 10.1 The Seller shall not be liable to the Buyer for any loss or damage caused to or suffered by the Buyer as a direct or indirect result of the supply of Goods by the Seller being prevented, restricted, hindered or delayed by reason of any circumstances outside the control of the Seller including, without limitation, circumstances affecting the provision of all or any part of the Goods by the Seller's usual source of supply or delivery or by the Seller's normal route or means of delivery.

11 SEVERABILITY

- 11.1 If any of the Terms and Conditions of the Contract (or part thereof) shall be found to be invalid, ineffective or unenforceable, the invalidity, ineffectiveness or unenforceability of such term or condition (or part thereof) shall not affect any other term or condition (or the other part of the term or condition of which such invalid, ineffective or unenforceable part forms part) and all terms and conditions (or parts thereof) not affected by such invalidity, ineffectiveness or unenforceability shall remain in full force and effect.

12 MISCELLANEOUS

- 12.1 The parties agree that this agreement is not intended to benefit any third party and expressly excludes the Contracts (Rights of Third parties) Act 1999.
- 12.2 The Buyer shall indemnify the Seller against any costs, expenses or losses incurred or sustained by the Seller in exercise of its rights under this Contract.

13 GOVERNING LAW

- 13.1 The construction, validity and performance of the Contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English court

14 WAIVER

- 14.1 The failure of the Seller to insist upon the strict performance of any of the Terms and Conditions of the Contract shall not be construed as a waiver of any such term or condition and shall in no way affect the Seller's right to enforce such provision later.