



## *General Terms and Conditions of Sale of Products for Northdoor plc*

### 1. Definitions

In these Terms and Conditions the following expressions shall have the following meanings:

**"Northdoor"** means Northdoor plc, 1-3 Dufferin Street, London, EC1Y 8NA. Registered in England and Wales No: 2192480

**"Customer"** means the person, firm or company ordering the Products

**"Hardware"** means any computer hardware

**"Software"** means any computer software whether embodied in ROM, RAM, firmware or on disk, tape or other media.

**"Products"** means the Hardware and/or Software ordered by the Customer from Northdoor from time to time, including (where the context so admits) any individual Product.

**"Product"** means any individual item or items of Hardware or Software comprising the Products which is or are identified in any Contract of Sale incorporating these Terms and Conditions with a serial number, product code or other designation.

**"Intellectual Property"** means copyright, patent, trade-marks, service marks, registered designs, know-how, confidential information, trade or business names or other similar rights together with applications for any of the foregoing

**"Licence Agreement"** means any Licence Agreement accompanying or applying to the Products

### 2. Purchase and Sale

All orders for the products (as defined above) submitted by the customer to Northdoor and accepted by Northdoor shall be subject to the following terms and conditions which shall form part of and govern any contract of sale made between Northdoor and the customer ("The Contract"). Acceptance by the customer of any estimate or quotation for the products issued by Northdoor shall be deemed to be acceptance of these conditions of sale. Any terms or conditions to the contrary contained in any purchase order, or other document whatsoever issued by the customer shall be void and of no effect. No waiver of or amendment to these terms and conditions shall be effective unless made in writing and signed by both parties.

Northdoor agrees to sell and the Customer agrees to buy the "Products" upon the terms and conditions set out below.

### **3. Delivery**

- 3.1 Northdoor shall deliver the Products to the Location on the Delivery Date, in accordance with the Delivery Instructions.
- 3.2 On delivery Northdoor shall:
- i) deliver the Products to the Buyer in good working order and condition; and
  - ii) (where applicable) use all reasonable endeavours to deliver a letter from the maintainer of the Products confirming that the Products is acceptable for continued maintenance
- 3.3 If the Customer fails to take delivery of the Products or provides Northdoor with delivery instructions that are inadequate at the time stated for delivery (otherwise than by reason or any cause beyond the Customer's reasonable control or by reason of Northdoor's fault) then, without prejudice to any other right or remedy available to Northdoor, Northdoor may;
- i) store the Products until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
  - ii) sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Customer for any shortfall below the Purchase Price, and the Delivery Date shall be deemed to be the date on which such delivery would have taken place but for such failure.
- 3.4 Any delivery dates quoted or mentioned by Northdoor whether verbally or otherwise are estimates only. Whilst Northdoor shall use all reasonable endeavours to meet the delivery dates requested by the Customer (subject to acceptance by Northdoor of the Customer's order) it does not guarantee to do so. Time shall not be of the essence and Northdoor shall have no liability to the Customer if it fails to meet any requested, quoted, estimated or agreed date of delivery.

- 3.5 Northdoor shall be entitled to make partial deliveries of the Products or deliveries of the Products by instalments.
- 3.6 The risk in the Product shall in respect of each part thereof pass to the Customer on delivery of the same to the Customers' premises.
- 3.7 No liability for non-delivery, loss of or damage to the Products occurring prior delivery thereof, or for any claim that the Products are not in accordance with the agreement will be accepted by Northdoor unless claims to that effect are notified in writing to Northdoor by the Customer (with a copy thereof to Northdoor's carrier in the case on non-delivery, loss or damage):
- a) Within two days of delivery in the case of loss, damage or non-compliance with this agreement, or
  - b) Within two days of the date of Northdoor's invoice (in the case of non-delivery).

In the event of a valid claim of non-delivery, loss or damage or non-compliance with the Contract Northdoor shall at its option replace the Products at its own expense but shall be under no liability whatsoever to the Customer or any third party in respect of such non-delivery, loss, damage or non-compliance. The Customer shall not be entitled to make any claim against Northdoor for any consequential or other losses whatsoever arising out of or in connection with non-delivery, loss of or damage to the Products or lack of conformity as aforesaid.

- 3.8 If the Customer fails to give notice in accordance with sub-clause (7) above the Products be deemed to be in all respects in accordance with this Agreement and the Customer shall be bound to accept and pay for the same.
- 3.9 All Products replaced by Northdoor shall become the property of Northdoor.

#### **4. Payment**

- 4.1 The Customer shall pay any Deposit agreed to Northdoor at Northdoor's address upon execution of this Agreement and the whole of the remainder of the Purchase Price on the Delivery Date. The Purchase Price is exclusive of VAT and all other taxes and/or duties relevant to the "Products" and/or this transaction.
- 4.2 Payment on the due date is of the essence of this Agreement and if the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Northdoor, Northdoor shall be entitled to:
- a) cancel the Agreement or suspend any further deliveries to the Customer;
  - b) appropriate any payment made by the Customer for any part of the Products (or such of the products supplied under any other contract between the Customer and Northdoor) as Northdoor may think fit (notwithstanding any purported appropriation by the Customer); and

- c) charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 5 per cent per annum above the Lloyds TSB Base rate published from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## **5. Title**

5.1 Notwithstanding any other provision contained in these Terms and Conditions but without prejudice to clause 5(8) below, the legal and equitable title to or in each Product shall remain with Northdoor until payment in full of the purchase price (together with any interest and VAT thereon) and in cleared funds has been received by Northdoor in respect of:-

- i) that Product

and,

- ii) all other Products agreed to be sold by Northdoor to the Customer for which payment is due

and,

- iii) any other agreement between Northdoor and the Customer

5.2 The said title shall remain with Northdoor notwithstanding that the Product or Products referred to in clause (1) above shall have been incorporated in or affixed to other products including, for the avoidance of doubt, the storage of or incorporation of any Software in ROM, RAM or any other hardware, software or firmware or other media whatsoever.

5.3 Until such time as, in accordance with the above provisions, the Customer becomes the owner of any Product, the Customer will store the same on its premises separately from its own goods or those of any other person and clearly marked as Northdoor's property, and the Customer shall redeliver the Product to Northdoor on demand.

5.4 If the Customer fails to redeliver any Product on demand in accordance with these Terms and Conditions, Northdoor shall be entitled, with or without notice, without incurring any liability to the Customer, to enter the Customer's premises for the purpose of taking possession of the Product, including:-

- i) the right to dismantle any product into which the Product has been incorporated;
- ii) the right to detach the Product from any other goods to which the Product has been attached;

The Customer shall indemnify Northdoor in respect of all Northdoor's costs in connection with enforcing the provisions of this sub-clause.

- 5.5 Until such time as, in accordance with the above provisions, either the Customer shall have ceased to have the right to retain possession of any Product or shall have acquired the property in the Product, the Customer is hereby granted a licence by Northdoor to sell the same by way of bona-fide sale in the ordinary course of business.
- 5.6 Where a Product is sold or otherwise disposed of to a third party before title to it has passed to the Customer, the sale will constitute a sale by the Customer of Northdoor's property, and the Customer shall hold on trust for Northdoor such sum as represents, or is equivalent to, the price at which the Product concerned was invoiced by Northdoor to the Customer. Such proceeds shall be paid by the Customer into a separate bank account opened for the purpose and approved by Northdoor. The Customer shall ensure that in no circumstances are the said proceeds mingled with other money or paid into any overdrawn bank account but are all times identified as Northdoor's money.
- 5.7 If the Customer has not received the proceeds of any such sale or disposition it will, if required by Northdoor, assign to Northdoor forthwith all rights against the person, firm or company by whom the proceeds are owed.
- 5.8 In respect of Software, title only to the materials upon which programmes are recorded and not to the recorded programs shall pass to the Customer upon payment of the applicable price and other sums due. No ownership to, rights in or title to any Intellectual Property rights in the Software shall be transferred to the Customer.
- 5.9 It is expressly agreed that Northdoor may maintain an action for the price of any Product for which payment has not been made notwithstanding that property in the same has not been passed to the Customer

## **6. Product Warranties and Limitation of Liability**

- 6.1 The Customer shall be entitled to the benefit of any warranty against any defect in the Products received by Northdoor under any agreement with the manufacturer or supplier of the Products.
- 6.2 Save as aforesaid all other warranties, conditions or representations, express, implied statutory or otherwise are expressly disclaimed by Northdoor and Northdoor shall not be liable for loss or damage or injury of any kind whatsoever (including without limitation any consequential losses) howsoever caused and whether or not arising from the negligence of Northdoor, its employers sub-contractors or agents EXCEPT where:-
- a) death or personal injury is caused by the negligence of Northdoor, OR
  - b) where damage to property results directly from the negligence or Northdoor in which case Northdoor's liability shall be limited to £500,000.00 per incident or series of connected incidents

6.3 Northdoor's employees or agents are not authorised to make representations concerning the Products unless confirmed by Northdoor in writing. In entering into this Agreement the Customer acknowledges that it does not rely on, and waives any claims for breach of, any such representations which are not so confirmed.

## **7. Termination**

7.1 Notwithstanding anything else contained in these Terms and Conditions, the Contract may be terminated:-

- a) by either party forthwith on giving notice in writing to the other if the other commits a material breach of any term of the Contract and (in the case of a breach capable of being remedied) shall have failed, within 30 days after the receipt of a request in writing from the other party so to do, to remedy the breach (such request to contain a warning of such party's intention to terminate); or
- b) if the Customer shall make default in making payment for any of the Products supplied by Northdoor, or shall give notice to its creditors of any of them that the Customer has suspended or is about to suspend its business or payment of its accounts, or if the Customer shall be unable to pay his debts or have no reasonable prospect of being able to pay his debts, or shall be unable to pay his debts or being a Company shall be unable to pay its debts within the meaning of the section 123 of the Insolvency Act 1986, or if an order shall be made or an effective resolution passed for the winding-up of the Customer (other than for the purpose of and followed by a re-construction or amalgamation), or if an administrator, receiver or manager, or administrative receiver shall be appointed of the whole or any part of the undertaking or assets of the Customer then, and in any such case, Northdoor shall have the right, without prejudice to any other right or remedy available, to enter the Customer's premises and repossess the Products or any of them, and shall have the right to dismantle any machinery product or item or equipment into which the Products or any of them have been incorporated and the Customer shall be responsible for all Northdoor's costs and expenses in connection with so doing.

7.2 Any termination of the Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue to force on or after such termination.

## **8. Intellectual Property Rights**

8.1 All Intellectual Property Rights in or relating to the Products are and shall remain the property of Northdoor or its suppliers as the case may be.

- 8.2 The Customer shall notify Northdoor immediately if it becomes aware of any illegal or unauthorised use of any of the Products or any of the Intellectual Property Rights in the Products and will assist Northdoor and/or its suppliers in taking all steps necessary to defend the owners rights.
- 8.3 The Customer shall ensure that all copies of Software Products which are sold to end-users or any third party shall be accompanied by any Licence Agreement (whether Shrink Wrap or otherwise) accompanying the Products or any other document which Northdoor or its suppliers require.

## **9. Data Protection**

- 9.1 The Customer and Northdoor agree that the processing of Personal Data pursuant to this agreement shall be carried out by Northdoor as a data processor as follows:-
- a) The subject matter and duration of the processing shall be as set out in this Contract; and
  - b) The nature and purpose of the processing shall be as set out in this Contract.
- 9.2 Northdoor shall process personal data only on documented instructions from the Customer (which shall include, without limitation, any processing required to be carried out under the terms of this agreement) including with regards to any transfer of personal data outside the UK, unless required by any domestic or European Union legal requirement to which Northdoor is subject in which case Northdoor shall, unless prohibited by law, inform the Customer before carrying out such processing.
- 9.3 Northdoor shall ensure that any employees, sub-contractors, consultants or others authorised by it to process personal data are subject to obligations of confidentiality.
- 9.4 When processing personal data Northdoor shall take all appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction, disclosure or damage.
- 9.5 Notwithstanding any other provision of this agreement, Northdoor shall not sub-contract any processing of personal data under this agreement without the prior written agreement of the Customer. To the extent that any such sub-contracting is authorised pursuant to this clause Northdoor shall comply with the provisions of the data protection legislation in force from time to time in respect of any such sub-contracting.
- 9.6 Northdoor shall, to the extent reasonably practicable taking into account the nature of the processing of the relevant personal data, assist the Customer by taking appropriate technical and organisational measures to assist the Customer to fulfil its obligations to respond to requests for the exercise of the rights of data subjects pursuant to Chapter III of the GDPR.
- 9.7 Northdoor shall assist the controller in ensuring compliance with the data security requirements set out in Articles 32 to 36 of the GDPR taking into account the

nature of the processing of the relevant personal data and the information available to Northdoor.

- 9.8 Upon termination of this agreement for any reason, Northdoor shall, at the request of the Customer, either return or destroy the personal data (at the option of the Customer) save to the extent that Northdoor is required by domestic or European Union law to retain such personal data.
- 9.9 Northdoor, shall at the request of the Customer provide the Customer with all necessary information required by the Customer to allow it to demonstrate compliance with the obligations in relation to the appointment of data processors set out in Article 28 of the GDPR and shall allow for and contribute to data protection audits carried out by the Customer or its nominated auditor.
- 9.10 Northdoor shall notify the Customer immediately if it believes that any instructions from the Customer to provide information pursuant to clause 9.9 violate the GDPR or any other domestic or European Union law.

## **10. Force Majeure**

- 10.1 Northdoor shall not be responsible or liable to the Customer in any way or failure or delay in performance of any of its obligations under this Agreement caused by act of God, fire, flood, war, strike, industrial dispute, governmental action or regulations failure or delay in obtaining raw materials utilities machinery or facilities, or for any other cause whatsoever beyond Northdoor's control. In the event that delivery is delayed for any such reasons the Delivery Date shall be postponed by a period equal to such delay and the provisions of this Agreement shall be amended accordingly but without otherwise relieving the Buyer of its obligations.

## **12. Assignment**

This Agreement is personal to the Customer who shall not be entitled to assign its rights or obligations hereunder without prior written consent of Northdoor which consent may be withheld at Northdoor's discretion until the full Purchase Price has been paid to Northdoor hereunder.

## **12. Miscellaneous**

- 12.1 No forbearance indulgence or relaxation on the part of Northdoor in enforcing any of the terms and conditions hereof or the granting of any time shall in any way affect diminish restrict or prejudice the rights or powers of Northdoor hereunder or operate as or be deemed to be a waiver by Northdoor of any breach hereof.
- 12.2 This Agreement shall be governed and construed in accordance with English Law and the parties hereby submit to the jurisdiction of the High Court of Justice in England.

- 12.3 If any provision shall be held to be invalid, illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not be in any way effected or impaired thereby.
- 12.4 This Agreement constitutes the entire understanding between the parties hereto and supersedes all proposals and all previous communications agreements and understanding between them relating to the subject matter hereof. No alteration modification or waiver hereof shall be valid unless in writing signed by authorised officers to both parties hereto.
- 12.5 The marginal headings to clauses in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement.
- 12.6 a) Each notice, request demand or other communication to be given by a party pursuant to this Agreement shall be validity given if it is in writing addressed to the other party as its office mentioned above or at such other address as may be notified for this purpose.
- b) Any such notice, request, demand or other document to be given shall be given i) upon completion of transmission (if given by facsimile or other electronic communication) or ii) when left at the address of the relevant party mentioned above or three days after posting by first class mail addressed as required above, if given by letter.
- 12.7 Any typographical, clerical or other error or omission in any quotation, acceptance of offer, invoice or other document or information issued by Northdoor shall be subject to correction without any liability on the part of Northdoor.

Signed and accepted on  
behalf of Customer:

Signed: .....

Print name: .....

Position: .....

Date: .....

Signed and accepted on  
behalf of Northdoor plc:

Signed: .....

Print name: .....

Position: .....

Date: .....