

# The Terms of Trade of Alprofil plc (hereinafter called "the Company") of Sheddingdean Industrial Estate, Marchants Way, Burgess Hill, West Sussex, RH15 8QY

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All order, in whatever terms are accepted subject to the following conditions and no additions or alterations shall apply unless specifically agreed in writing by a Director or the Secretary of the Company. Previous dealings between the Company and any customer shall not vary or replace these terms or be deemed in any circumstances to do so. The customer acknowledges that before entering into an Agreement for the purchase of any goods from the Company he has expressly represented and warranted that he is not insolvent and has not committed any act of bankruptcy, or being a Company with limited or unlimited liability, knows of no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver, to petition for winding up of the Company or apply for the appointment of an administrator or exercise any other rights over or against the Company's assets. Each provision of these terms is to be construed as a separate limitation applying and surviving even if for any reason one or more of the said provisions is held inapplicable or unreasonable in any circumstances.

In the event of inconsistency between the Company's and the customer's terms of trade the Company's shall prevail.

In any interpretation of these conditions the word "goods" shall where applicable include, but not by way of limitation, any apparatus, services rendered or work done.

The conditions:

## 1. Acceptance of Orders

- 1.1 Quotations are valid for 30 days, and represent no obligation until the Company accepts the customer's order. The Company reserves the right to increase quoted prices at any time (whether before or after the date of the Company's acceptance of an order) to cover:
  - a) circumstances beyond the Company's control including, but not by way of limitation, increases due to exchange rate fluctuations, rises in taxes and the cost of materials or transport.
  - b) extra costs incurred as a result of the cancellation, alteration or rescheduling of orders due to the customer's instructions or lack of instructions.
- 1.2 Prices quoted do not include VAT. All accounts are payable 30 days from the date of the Invoice. The Company reserves the right to delivery by more than one consignment and to invoice each consignment separately.
- 1.3 Customers outside the UK must obtain and pay the costs of any requisite import license.
- 1.4 Payment shall not be withheld on account of any claim by the customer against the Company.

## 2. Cancellation of Order

- 2.1 The Company reserves the right (without prejudice to any other remedy) to cancel any uncompleted order or to suspend delivery in the event of any of the customer's commitments to the Company not being met.
  - 2.2 The acceptance of a cancellation of an order or of the return of goods by the customer shall be at the absolute discretion of the Company.
  - 2.3 If an order is cancelled in any of the circumstances set out above, then the customer shall indemnify the Company against all loss, costs, damages, expenses and other liabilities arising out of the order and the cancellation thereof.
3. All delivery dates are quoted in good faith, but time shall not be deemed to be of the essence. The Company shall not be liable for any loss or damage (whether direct or consequential) whatsoever arising from late delivery of goods or materials and the customer shall not be entitled to treat the contract as repudiated by reason of any such late delivery.
  4. The acceptance by the Company of any order for goods shall constitute an agreement to sell the goods and not a sale of them and no title to the said goods shall pass to the customer by reason of delivery or acceptance of the same.
  5. The Company shall remain the sole and absolute owner of the goods until such time as the agreed price of the goods shall have been paid in full to the Company by its customer. Until such time the customer shall be the bailee of the goods for the Company and shall store them upon his premises separately from his own goods or those of any other person and in a manner which makes them identifiable as the goods of the Company.
  6. Goods the subject of any agreement by the Company to sell shall be at the risk of the customer as soon as they are delivered by the Company to his vehicles, the vehicles of his carrier or his premises or otherwise to his order.
  7. The customer's right to possession of the goods shall cease if he commits any available act of bankruptcy or (being a company) shall go into liquidation (save for the purposes of amalgamation or reconstruction of a solvent company) or shall have a receiver appointed of its undertaking or if the customer shall enter into any arrangement or composition for the benefit of his creditors or shall suffer any distress or execution to be levied on his goods or (being a company) shall do anything which would entitle any person to present a petition for winding up or to apply for an administration order. The customer agrees that the Company may for the purpose of recovery of its goods enter the premises of the customer and repossess such goods.
  8. The customer shall be at liberty to incorporate the Company's goods into another product or chattel subject to the condition that if the goods the property of the Company are admixed or united in any way with those of the customer, the products thereof shall become and/or shall be deemed to be for all purposes the absolute property of the Company. If the goods the property of the Company are admixed or united in any way with the property of any person or persons other than the customer or one processed with or incorporated therein, the product thereof shall become and shall be deemed for all purposes to be owned in common with that other person or persons.
  9. On the sale to a sub-purchaser of any products, goods or chattels to or in which the Company's goods have been attached or incorporated, the proceeds therefore shall be held in trust for the Company, shall not be mingled with other monies and shall not be paid into any overdrawn bank account but shall be paid into a fiduciary account for the Company with the customer's bankers and not until payment to the Company of the agreed price shall the customer be entitled to transfer any other monies to any other account.
  10. Goods will be supplied substantially as described in any specifications provided but the right is reserved to make design and other changes which will not reduce the performance of the goods.
  11. The customer shall inspect the goods immediately on delivery thereof and shall within thirty days from such delivery give notice in writing to the Company of any damage or loss or shortage of goods, or of any matter or think by reason whereof the customer may allege that the goods are not in accordance with the contract or are defective in material or workmanship. If the customer shall fail to give such notice the goods shall be conclusively presumed to be in all respects in accordance with the contract and free from any defect which would be apparent on reasonable examination of the goods and the customer shall be deemed to have accepted the goods accordingly. In the event that the customer establishes to the Company's reasonable satisfaction that the goods are not in accordance with the contract or are so defective, the customer's sole remedy in respect of such non-accordance or defects shall be limited as the Company may elect to the replacement of the faulty part or refund of the purchase price against the return of the goods.

## 12. Defects after Delivery:

- 12.1 The Company will free of charge make good by repair, or, at the Company's option, by the supply of a replacement, defects which under proper use appear in such part of parts of the goods as are of the Company's manufacture within a period of twelve months after the goods have been delivered and arise solely from faulty design materials or workmanship. Provided always that:
  - a) Any such goods requiring inspection for repair or replacement are delivered promptly by the customer, carriage paid, to the Company
  - b) The goods are properly maintained and operated in accordance with any instructions supplied to the customer by the Company and have not been modified or altered since leaving the Company's premises.
  - c) Any repairs to the goods, which may become necessary, are carried out by the Company or its agents or otherwise as the Company may at its discretion agree in writing.
  - d) Prompt notification of the discovery of any defect in the goods is given to the Company and, if aggravated damage may result from continued operation, the goods are not used again until repairs have been effected
- 12.2 The Company will use all reasonable endeavours to procure for the customer the benefit of such warranties and other rights as are conferred on the Company in relation to defects in such part or parts of the goods as are not of the Company's manufacture by terms of the Company's agreement with the suppliers of the goods. Goods not manufactured by the Company are supplied on the strict understanding that the Company's liability shall not extend beyond the liability to the company of the manufacturer or supplier of such goods.
- 12.3 These terms set out the Company's entire liability in respect of the goods, and the Company's liability under these terms shall be in lieu and to the exclusion of all other warranties, conditions, terms and liabilities expressed, implied or statutory or otherwise in respect of the quality or the fitness for any particular purpose of the goods or otherwise howsoever (notwithstanding any advice or representation to the customer, all liability in respect of which howsoever arising is expressly excluded) except any implied by law or statute and which by law or statute cannot be excluded. Save as provided in these terms and except as aforesaid, the Company shall not be under any liability, whether in contract, tort or otherwise in respect of defects in the goods or failure to correspond with the specification of the same or for any injury, damage or loss resulting therefrom or from any work done in connection therewith.

## 13. Limitation of Liability:

- a) The Company's liability (if any) whether in contract, tort or otherwise in respect of any defect in the goods or any injury, damage or loss resulting therefrom or from any work done in connection therewith, or for any breach of the agreement or of any duty owed to the customer in connection therewith shall be further limited in the aggregate to the price of the goods in question.

## 14. Patent and Other Rights:

- 14.1 The sale of any goods and the publication of any information or technical data relating to such goods does not imply freedom from patent or other protective rights in respect of any particular application of the goods.
- 14.2 Tools, tooling, patterns, circuit board artworks, designs, photographs and negatives and other items which the company makes, assembles or creates in connection with the manufacture and production of the goods and the copyright therein remain the Company's property notwithstanding that the customer may have been debited with any sum in respect of their cost.

## 15. Force Majeure:

The Company shall have no liability in respect of a failure to deliver or perform or delay in delivering or performing any obligations under a contract due to any cause outside the reasonable control of the Company including but not limited to act of God, civil commotions, strikes, lockouts, war, fire, accidents, epidemics, governmental regulations or requirements, unavailability of materials or failure of the original manufacturer or supplier or of any carrier or sub-contractor to deliver the goods or any component part of the goods on time or at a (land if the delay or failure has continued for a period of 3 months then either party may give notice in writing to the other determining the contract and on such determination the Company shall refund to the customer any payment which the customer has already made on account of the price of the goods after deduction of any payment due to the Company.

## 16. Law

Any contract between the Company and the customer shall be governed by English law. Any dispute arising out of or in connection with these terms shall be determined by the English Courts.