

General Terms and Conditions of Trade with Prosyn@Home Ltd
Prosyn@Home Ltd endeavour to provide all its customers with the
highest level of service

General

These conditions comprise all the terms and conditions on which the seller will supply the goods and services specified on the order.

They may be amended only by agreement in writing between the seller and the buyer.

In the event of conflict between the conditions and the provisions on the order, the provisions on the order will prevail.

Acceptance of delivery of the goods and/or commencement of the works will be deemed to be conclusive evidence of the buyer's acceptance of these conditions.

Scope of work

The goods that the seller will supply and the work that the seller will do are set out on the order. Unless stated, the seller is not employed to carry out any design or survey work but merely to supply and install a standard product in the place required by the buyer.

The quantity and description of the goods shall be as set out on the order, although the seller is continually improving its product range and shall reserve the right to supply and fit substitute products reasonably similar to those ordered.

The works shall not include the maintenance of any product, although the seller shall provide the buyer with instructions for maintenance.

Goods are deemed to be accepted upon delivery and services upon completion of the works.

Price and payment

The price shall be the price set out on the order. The price is exclusive of VAT. Payment of 50% of the purchase price is payable on placement of the order and the balance on delivery of the goods or completion of the works.

Estimates are not binding on the seller.

Unless otherwise stated, quotations are binding on the seller for 30 days.

If the buyer fails to make payment on the due date then the seller may suspend delivery and/or work. The seller may appropriate any payment made by the buyer to such goods or work carried out as it may in its sole discretion think fit.

Interest on late payment shall accrue from the date on which the payment becomes due until date of payment at a rate of 4% above Barclay's Bank base rate, together with any reasonable charges incurred in recovering such amount.

The buyer shall not exercise rights of abatement or set-off.

Time for completion

The estimated commencement date is literally an estimated date and the seller shall not be liable for any loss or damage caused through failure to meet such date.

If (other than by the seller's default) delivery of the goods or completion of the

work is delayed beyond 3 months, the seller may increase the total price to take account of increased costs.

The seller's certificate that the works are complete shall be conclusive.

Works

The buyer shall provide adequate safe access for the delivery and works.

The buyer shall supply water and power as required.

The buyer shall provide safe, dry storage for goods delivered by the seller.

The buyer shall protect its property surrounding the site, and shall advise the seller of any risks, in particular making the seller fully aware of any pipes, cables or wires underground or otherwise. The seller shall not be liable for any damage arising from the buyer's failure to notify the seller of any risks associated with the works. The seller shall be entitled to delay the works until satisfactory evidence of survey, permissions or consents is produced.

The seller shall take reasonable care with the works, but shall not be held liable for any damage reasonably caused in connection with the works.

The buyer shall ensure that any consents or permissions potentially required to carry out the works are obtained. This will include consent or permissions of any owner, landlord, planning authority, building regulation authority, highways department, neighbour or other party, unless specifically agreed otherwise on the order. The buyer shall indemnify the seller against any claims made by any party as a result of the failure to obtain any consents, permissions, licenses or remove any restriction in connection with the works and in respect of any premises, or premises or equipment being unsafe or unsuitable, or any failure of the client to comply with any conditions imposed by any other party.

The seller may subcontract the works.

Ownership of the goods

Goods delivered to the buyer shall remain the property of the seller until paid for in full. Risk passes to the buyer on delivery.

Variations

If, during the works, unforeseen factors require a variation to the works or use of alternative or additional materials or labour, or if the buyer requests a variation, the seller shall inform the buyer in writing of the estimated cost of the variation, increase or addition and seek written approval to proceed. If no such approval is obtained, or no agreement is reached, over the change in the cost of the work the seller may terminate the contract and be entitled to payment for goods received and labour supplied to date.

Limitation of Liability

The seller shall exclude or limit its liability as far as is permissible under current law. Except in the case of death or personal injury caused by negligence, the seller's liability shall not exceed the order value, and in no case shall it exceed the limit of its current insurance policy.

Guarantee

The buyer shall notify the seller of any dissatisfaction with goods or services upon discovery.

The seller shall guarantee its workmanship for 3 months following completion of the works. The guarantee shall not cover accident, misuse, failure to maintain or act of God.

Unless otherwise stated, any guarantees in respect of goods shall be with the manufacturer or supplier of those goods and not with the seller.

The seller shall not be liable for any defect in any property, premises or system connected with the works that exists at the start of the works.

Force Majeure

The seller shall not be liable for any default due to any act of God, war, terrorism, civil disturbance, malicious damage, industrial action, compliance with any law or order, rule regulation, direction or any other circumstances beyond its reasonable control.

Notice

Any waiver in terms of these terms and conditions granted to the buyer by the seller shall be valid only if given in writing and shall not be an indication that a further waiver shall be granted.

If any provision of these terms and conditions is held to be unlawful, void or unenforceable, the provision shall be, to the extent required, severed from the remainder and the remainder shall continue in full force and effect.

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this agreement shall not give any person who is not a party to it any right to enforce any of its provisions.

Any notice in terms of these terms and conditions shall be deemed to have been duly given if sent by prepaid 1st class post, fax or email to the party concerned at their usual place of business or if applicable, residential address.

Law

This contract is subject to the law of England and Wales and the parties submit to the jurisdiction of the English courts.

Additional terms applicable to IT contracts:

- 1. Security and data safeguarding:** The buyer shall ensure that, prior to the seller carrying out work on its computer system or other electronic installation, all critical data has been backed up and that appropriate recovery procedures are in place. The seller shall not be liable for any data loss of the buyer. The seller shall limit its liability for data loss to the maximum extent permissible in law. In the event that the seller is held liable for data loss of the buyer's data the seller's liability shall be limited to the amount covered by any insurance policy in place. In compliance with English Law, the seller shall be obliged to report any apparent unlawful material found during recovery or other works.
- 2. Software Licensing:** It shall be the buyer's responsibility to comply with the terms of use, distribution, duplication and other requirements, whether public or private in origin, applicable to any software supplied through or worked on by the seller. Any employee of the seller may delay any project until proof of licensing is provided. The seller shall not be liable for any intellectual property infringements of the buyer. The buyer shall indemnify

- the seller against any intellectual property infringement actions.
3. **Hardware and software supply and warranty:** The seller shall supply industry standard branded hardware and recognised system software unless otherwise specified by the buyer. Unless otherwise stated, all warranties for any goods supplied are with the developer, manufacturer or supplier of the goods. The seller may assist with returning goods to the developer, manufacturer or supplier of the goods at its normal hourly rates, if required by the buyer. The seller shall take no responsibility for errors occurring in software changes and updates made by the developer, manufacturer or supplier. While the seller aims to provide any resolution specified by the developer, manufacturer or supplier, this shall be done at the seller's normal hourly rates.
 4. **Maintenance of Protection:** The buyer shall be responsible for ensuring that the effectiveness of any software supplied by the seller is maintained by acquisition from the original developer, manufacturer or supplier of such database files, programme patches or other revisions, as may become available from time to time. The seller may request that any critical patches are updated as required. While every precaution shall be taken to avoid disruption, the seller shall take no responsibility for any errors in software developed by third parties.
 5. **Privacy:** The buyer shall ensure that all applicable human rights legislation and privacy safeguards are observed when using software and telecommunication systems supplied, installed or serviced by the seller.
 8. **Copyright:** Copyright of all material developed by the seller, either in the form of pre-contract documentation, site documentation or as text, images, research papers or electronically stored code for the manipulation, transmission and presentation of information, shall remain property of the seller. Copyright may be assigned or licensed to the client by separate agreement with the seller.