

# Keltec Limited - Standard Terms & Conditions

## 1. Parties

KELTEC LIMITED with its head office at 2 Bracknell Enterprise Centre, Easthampstead Road, Bracknell, Berkshire RG12 1NF ('Keltec')

CUSTOMER. The party entering into this agreement for the purchase of products or services from Keltec Limited ('the Customer')

## 2. Application of these Terms and Conditions

Keltec Limited ('Keltec') makes contracts for the supply of goods, including, for the avoidance of doubt, software, ('Goods') and/or services ('Services') subject only to these terms and conditions, and any special terms and conditions notified by Keltec. Any person or entity placing an order for Goods or Services on Keltec, (described as 'Customer' in these terms and conditions), accepts that these terms and conditions shall prevail between Customer and Keltec to the exclusion of all other terms, whether express or implied. No order from Customer shall be binding on Keltec until it has been accepted in writing by Keltec. In the event of any conflict between any Keltec special terms and conditions and these terms and conditions, the Keltec special terms and conditions shall prevail. No variation of these terms and conditions shall be valid unless agreed in writing by a duly authorised representative of Keltec.

Where Keltec acts as agent only in procuring a contract for Services, such as third party maintenance, or internet services, the terms and conditions governing such contract shall be those of the third party provider, copies of which are available from Keltec on request.

## 3. Specification

Keltec reserves the right to amend any specification where the effect will be to enhance or maintain the overall performance of the Goods or Services.

## 4. Price and Payment

- 4.1 Quotations are valid for 30 days only. Invoices shall be paid by Customer within 21 days of invoice date. Keltec is entitled to charge interest on late payment at 3% above the Bank of Scotland base lending rate in force for the relevant period;
- 4.2 No deductions shall be made in respect of set-off or counterclaim;
- 4.3 Prices quoted by Keltec exclude VAT and any other applicable tax, and, unless otherwise specified, exclude delivery.

## 5. Delivery

- 5.1 Keltec will use its reasonable endeavours to comply with any estimated delivery dates and Keltec shall not be liable to Customer in respect of any late delivery;
- 5.2 Where Keltec has agreed to install Goods at Customer's premises, Customer shall provide adequate safe storage on site for a reasonable period prior to the planned date of installation;
- 5.3 Any deficiencies in delivery must be notified to Keltec in writing within three working days of delivery;
- 5.4 Where the delivery of Goods and/or the supply of Services require Keltec to be on site at Customer's premises Customer will provide to Keltec access to all information and facilities reasonably required by Keltec for the delivery of such Goods or the performance of such Services, and Customer shall provide safe working conditions for Keltec.

## 6. Title and Risk

- 6.1 Risk of loss of, or damage to Goods shall pass to Customer at the time of delivery;
- 6.2 Where Customer has agreed to purchase Goods from Keltec, such Goods shall remain the sole and absolute property of Keltec until such time as the Customer shall have paid to Keltec the agreed price for the Goods together with any other monies owed to Keltec;
- 6.3 Until such payment Customer shall be in possession of the Goods on behalf of Keltec and shall ensure that the Goods can be identified as the property of Keltec;
- 6.4 Keltec reserves the immediate right of repossession of any goods to which it has retained title under this clause. For this purpose Customer hereby grants an irrevocable right and license to Keltec its employees and agents to enter upon its premises with or without vehicles during normal business hours and Keltec reserves the right to redistribute such Goods. Keltec's exercise of its right of repossession shall not prejudice any other right of Keltec whether under these terms and conditions or otherwise.

## 7. Rental of Goods

Where Keltec agrees to supply Goods to Customer on a rental basis, Customer agrees to keep such goods insured to their full value by a reputable insurer; to permit the use of such Goods only in accordance with the manufacturer's instructions by properly trained personnel; to keep such Goods on the premises of Customer notified to Keltec as the delivery address and not to move such Goods from such address without Keltec's prior written consent; to return such Goods to Keltec at the end of the agreed rental period at Customer's expense, in good condition and in the original packaging.

## 8. Third Party Software

Any supply of third party software is supplied subject to the third party's license terms, a copy of which is available from Keltec on request. By placing an order Customer accepts those license terms.

## 9. Confidential Information

All information relating to business, products and services, including oral information; written information, and information recorded in any other media ('Information') which is disclosed by Keltec and Customer to each other shall be treated as confidential for a period of five years following the date of disclosure, save where the Information:

- 9.1 now or later comes into the public domain other than by breach of this clause 9;
- 9.2 is in the possession of the recipient with full right to disclose prior to receiving it from the other party;
- 9.3 is independently received by the recipient from a third party with full right to disclose;
- 9.4 is trivial or obvious.

## 10. Warranty

- 10.1 Keltec warrants that the Goods will be sold with the benefit of any third party manufacturer's warranty. All other warranties in respect of Goods, express or implied, are excluded to the fullest extent permitted by law;
- 10.2 The warranty described in sub-clause 10.1 shall be subject to Customer complying with its obligations under these terms and conditions and subject to there having been no alterations to the Goods other than any alterations made by Keltec, or with Keltec's prior written consent;
- 10.3 Keltec's sole liability in respect of breach of the warranty given in this clause 10 shall be at its option to repair or replace the Goods. If the Goods are not capable of repair or replacement, Keltec's sole liability shall be the return of the Price actually paid by Customer for the defective element of the Goods. For the avoidance of doubt, Keltec shall not be responsible for any re-installation or commissioning costs incurred as a result of the replacement, for whatever reason, of any Goods;
- 10.4 Customer shall not return any Goods to Keltec without Keltec's prior written authorisation;
- 10.5 Customer acknowledges that it is the responsibility of Customer to ensure that the Goods meet Customer's requirements;
- 10.6 Keltec warrants that the Services shall be performed in accordance with good industry practice. All other warranties in respect of the Services, whether express or implied, are excluded to the fullest extent permitted by law;
- 10.7 Keltec shall not be liable for any failure to perform any obligation under these terms and conditions where any payments are overdue to Keltec from Customer.

## 11. Year 2000

For the purposes of these terms and conditions 'Year 2000 Compliant' means compliant with the definition set out in BSI DISC PD2000-1, a copy of which can be found on <http://www.bsi-global.com> and which is also available from Keltec on request. To the extent that Services

provided directly by Keltec include changing date data, those Services will be Year 2000 Compliant. The Customer acknowledges that the Services may interface with computer systems and software which are outside the scope of these terms and conditions (including for the avoidance of doubt computer systems and software previously supplied by Keltec), and the Customer acknowledges that Keltec shall not be liable for any failure to comply with this clause to the extent that any such failure shall be caused by the exchange of date data from or to computer systems and/or software which have a date format which is not compatible with any date format used in the course of provision of the Services. The warranty given in this clause does not apply to Goods which are sold only with any warranty provided by the manufacturer.

## 12. Liability

- 12.1 Keltec shall indemnify Customer for personal injury or death caused by negligence of its employees in the course of carrying out their duties for Keltec;
- 12.2 Keltec shall in no event be liable to Customer for any indirect, special or consequential loss or damage, including, without limitation loss of profits, loss of data, loss of anticipated earnings and loss of contracts, however caused;
- 12.3 Keltec's liability for direct damage to physical property shall be limited to £500,000.00 for any one event or series of connected events;
- 12.4 Subject to the provisions of clauses 12.1 to 12.3, Keltec's entire liability to Customer in respect of each event or series of connected events shall be limited to 125% of the price paid by Customer to Keltec for the Goods and/or the Services which give rise to the claim;
- 12.5 Any claim made by Customer against Keltec under these terms and conditions shall be notified to Keltec in writing within one year of the event giving rise to the claim.

## 13. Termination

- 13.1 Keltec shall be entitled to terminate any or all of its contracts with Customer immediately on written notice;
- 13.2 if Customer is more than 30 days in default of any payment due to Keltec, whether under these terms and conditions or otherwise;
- 13.3 if Customer shall have a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding up (other than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction shall make an order to that effect or if the Customer shall enter into any voluntary arrangements with its creditors or shall become subject to an administration order or shall cease to carry on business;
- 13.4 if Customer is in material breach of these terms and conditions and such breach, if capable of remedy, has not been remedied 30 days after written notice from Keltec requiring remedy.

## 14. Effect of Termination

- 14.1 On termination of any contract between Keltec and Customer, each party shall promptly return to the other any materials or equipment belonging to the other which was delivered under, or in connection with the contract which has been terminated;
- 14.2 Any termination of any contract between Keltec and Customer shall not affect any accrued rights and liabilities of either party.

## 15. Non-solicitation

During, and for a period of twelve (12) months after termination of, any contract between the parties, neither party shall seek to entice away from the other's employment any employee involved in the performance of that contract. Customer and Keltec agree that in the event of breach of this provision, the measure of damages shall be fifty per cent (50%) of the starting salary of the employee in his or her new employment.

## 16. Assignment

Customer may not assign any contract with Keltec without Keltec's prior written consent.

## 17. Force Majeure

The parties hereto shall be under no liability for any failure to perform any or all of their obligations hereunder if such failure shall be due to any circumstances beyond the reasonable control of the parties including (without limitation) acts of God or fire flood strike or labour disputes civil unrest commercial sabotage statute order or any regulation of any government public or local authority.

## 18. Waiver

The failure by Keltec to enforce at any time any one or more of these terms and conditions shall not amount to a waiver, nor prevent Keltec at any subsequent time from enforcing them.

## 19. Enforceability

If any part of these terms and conditions is held to be unenforceable or invalid for any reason the remainder shall remain in full force and effect.

## 20. Notices

All notices which are required to be given by Keltec under these terms and conditions shall be in writing and sent to the main business address of Customer or such other address as may be notified to Keltec for this purpose in writing by Customer. All notices which are required to be given by Customer under these terms and conditions shall be in writing and sent to Keltec at 2 Bracknell Enterprise Centre, Easthampstead Road, Bracknell, RG12 1NF. Any such notice may be delivered personally, or by first class pre-paid letter or facsimile transmission, and shall be deemed to have been served if personally, when delivered, if by first class post three working days after posting and if by facsimile transmission confirmed by first class pre-paid letter post, the first working day after transmission. Notices may be served by Customer on Keltec by email at [co.sec@keltec.co.uk](mailto:co.sec@keltec.co.uk) and such notices shall be deemed to be served the next working day after transmission.

## 21. Export Restrictions

Customer acknowledges that Goods may be subject to the export control laws and regulations of the United States of America, and Customer confirms that it will comply with all such laws and regulations in relation to Goods.

## 22. Data Protection

Keltec is a data controller for the purposes of the Data Protection Act 1998. This means that we will process and store personal information about the Customer and the Customer's staff for the purposes of fulfilling Customer orders but may also pass such information to Manufacturers and their affiliates in order to process orders and in connection with the supply of warranty cover and support services in respect of products and services purchased. We and/or the Manufacturer may also contact you regarding offers of further products and services. Processing of your information may take place both within Europe and elsewhere. In placing an order with us you warrant that you have your staff's consent to the use of their personal information in this manner.

If you or any member of your staff does not wish to be contacted by us and/or the manufacturer please inform us as per clause 20 (notices) quoting the heading "Data Protection Removal Request".

## 23. Headings

The headings to the clauses of these terms and conditions are for ease of reference only and shall not affect the interpretation or construction of these terms and conditions.

## 24. Law

Any contract made under these terms and conditions is subject to English law and the parties submit to the non-exclusive jurisdiction of the English Courts.