

# Terms and Conditions of Sale

## 1. CONDITIONS TO PREVAIL

All orders for goods and services ("Goods") are accepted by Tarbat Electronic Solutions Limited ("Tarbat") subject to these terms and conditions of sale. No other terms will apply to the supply of Goods by Tarbat unless agreed in writing by Tarbat. Tarbat shall be under no obligation to acknowledge receipt of an order from the Customer, and shall be entitled to execute the order without further reference to the Customer.

## 2. PRICES

Prices are Tarbat's prices ruling at the date of despatch (unless otherwise agreed in writing). If extra expense is incurred as a result of the Customer's instructions, Tarbat shall be entitled to recover such extra expense from the Customer.

## 3. TERMS OF PAYMENT

- a. Credit accounts may be opened, subject to satisfactory credit references being obtained, at the sole discretion of Tarbat. Payment for Goods supplied on a credit account shall be due and payable not later than 30 days following the date of invoice. Should the Customer default in making payment as aforesaid the entire balance of the account of the Customer shall be payable forthwith and Tarbat shall be entitled to charge interest on the account, together with cost and expenses, in accordance with clause 4.e.1.
- b. For all other transactions payment terms shall be in cash with order.
- c. The Customer may not withhold payment of any invoice or other amount due to Tarbat by reason of any right of set off, deduction or counterclaim which the Customer may have or allege to have for any reason whatsoever.
- d. Credit Facilities may be withdrawn, reduced or restricted at any time at the sole discretion of Tarbat.
- e. If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available in the contract, Tarbat shall be entitled to:
  1. Charge interest to the Customer at a rate which is 4% per annum above the base rate from time to time of The Royal Bank of Scotland on the unpaid balance, compounded monthly, from the due date until the date of payment after as well as before any judgment and
  2. Cancel the contract or suspend further deliveries to the Customer without liability on the part of Tarbat and
  3. Be indemnified by the Customer against all costs and expenses incurred by Tarbat in recovering sums due or in exercising the rights of Tarbat pursuant to clause 1.
- f. Interest costs and expenses shall be due and payable pursuant to the foregoing clauses notwithstanding the fact that a portion of the account is subject to any dispute or query,
- g. Any sums due and owing to the Customer from Tarbat may at any time be offset by Tarbat against any sums due and owing to Tarbat from the Customer.
- h. The Customer agrees that Tarbat may obtain, retain and provide to third parties, references as to the financial standing of the Customer.

## 4. ORDERING

Orders may be placed verbally or via telephone, fax, email or mail. Verbal and telephone orders must be confirmed via fax, email or mail. This confirmation should be marked 'CONFIRMATION' to avoid duplication.

## 5. DELIVERY AND PASSING OF RISK

- a. Unless otherwise agreed, any stipulated time for delivery shall date from the receipt by Tarbat of the Customer's written order.
- b. Unless otherwise agreed, for deliveries within the UK, Tarbat shall deliver the Goods to the Customer. Risk of loss or damage to the Goods shall pass to the Customer on delivery.
- c. For delivery outside the UK, Tarbat shall deliver the Goods FOB UK Port.
- d. Delay in delivery of the Goods shall not give rise to any liability upon Tarbat whether or not any time or date is given in this respect.

## 6. METHODS OF PAYMENT

Payment may be made by BACS transfer, cheque or postal order (crossed and made out to TARBAT ELECTRONIC SOLUTIONS LIMITED), or cash.

## 7. PASSING OF PROPERTY

- a. Notwithstanding that risk in the Goods shall pass to the Customer when the Goods are delivered to the Customer, title to the Goods sold to the Customer shall not pass to the Customer until all sums due to the Supplier for those Goods have been received by Tarbat (in cash or cleared funds).
- b. In the event that before title and property in the Goods has passed to the Customer, they shall have become admixed, incorporated, become constituents of, or converted into other products of or belonging to the Customer or in his possession or control, Tarbat shall be entitled to the beneficial and equitable ownership in such other products as if they were solely and simply the Goods until the Goods have been paid for in full by the Customer.

## 8. SUSPENSION OR CANCELLATION OF DELIVERIES

If the Customer shall fail to pay to Tarbat on the due date any sum payable to Tarbat under any circumstances whatsoever, or shall have a receiving order in bankruptcy made against him, or shall make any arrangement with his creditors or being a body corporate shall have a receiver appointed, or if any order shall be made or any resolution passed for winding up the same Tarbat may, without prejudice to its other rights, either suspend or cancel further deliveries and debit the Customer with any loss sustained thereby.

## 9. WARRANTY

- a. For products purchased from Tarbat: Tarbat warrants that if any product is defective, it will repair the product or refund the purchase price. This warranty is subject to a claim being made in writing to Tarbat within 12 months of the original date of delivery, as stated on the delivery documentation, or such other longer period as may be agreed by Tarbat for specific products from time to time.
- b. For services purchased from Tarbat: Tarbat warrants that if any service is defective, it will, at its discretion, either rectify the service or supply to the Customer free of charge a substitute product in place of the defectively serviced product. This warranty is subject to a claim being made in writing to Tarbat within 12 months of the original date of invoice, or such other period as may be indicated by Tarbat for specific products from time to time.
- c. These warranties shall not apply to any defect which arises from improper use, failure to follow the product instructions, or any repair or modification carried out without the consent of Tarbat.
- d. The customer must return or dispose of the products, or make them available for collection by Tarbat, in accordance with Tarbat's instructions.

## 10. RETURNS

The Customer may only return Goods to Tarbat, and receive a credit or refund, on the following conditions:

- a. The Customer must contact Tarbat to obtain prior consent of Tarbat, and to obtain a Customer Return Reference Number.
- b. Return must be made within 30 days of the date of delivery, as stated on the delivery documentation. Goods must be returned to Tarbat in their original condition and packaging and in a condition which will enable them to be immediately fit for re-sale.
- c. Goods to be returned to Tarbat must be adequately packed, despatched freight prepaid, and clearly labelled to: **Customer Returns, Tarbat Electronic Solutions Limited**, at the address shown on the delivery documentation. They must be accompanied by an advice note stating: Customer Returns Reference Number; the original order number or invoice number in respect of the Goods; and the nature of the claimed defect.
- d. Where the Customer returns products to Tarbat not in accordance with a, b & c above (for example, after 30 days or in an unfit state) Tarbat may:
  1. refuse delivery and return the products at the Customer's expense or
  2. apply a handling charge which relates to the actual cost of processing.
- e. Any Goods which are replaced by Tarbat shall become the property of Tarbat. Title to replacement Goods shall pass to the Customer on delivery, and the period of the replacement Goods' warranty shall be calculated from the date of despatch of defective Goods.

This returns policy excludes software and specially manufactured products.

Tarbat accepts no responsibility for any loss of or damage to the Goods in transit or for any items received by Tarbat with the Goods.

The remedies set out above shall be Tarbat's sole liability and the Customer's sole remedy for any breach of warranty.

Except as expressly provided in these terms and conditions of sale, all implied warranties, terms and conditions (whether statutory or otherwise) are excluded to the fullest extent permitted by law. Tarbat will not be liable to the Customer for any loss of any kind whatsoever which arises out of the breach of implied warranties, terms or conditions (statutory or otherwise) or breach of any other duty of any kind imposed on Tarbat by operation of law.

## 11. CONSEQUENTIAL LOSS OR DAMAGE

Tarbat accepts no responsibility in any circumstances whatsoever for any direct or indirect consequential or economic loss or damage howsoever arising, which may be sustained in connection with Goods supplied, whether such Goods are of Tarbat's own manufacture or origin or not. The Customer acknowledges that it is responsible for ensuring that the products and services it orders are fit for the purposes for which it intends to use them.

## 12. LIABILITY

- a. If the Goods, or any part thereof, are defective as a result of the faulty materials or workmanship of Tarbat, Tarbat's liability shall be limited, at its discretion, either to replacing such Goods or any defective part thereof (as the case may be) or to giving the Customer credit for the value thereof, but no such liability shall arise unless the defect arises solely as a result of the faulty materials or workmanship of Tarbat and notification of any defect is received by Tarbat in writing within ten days (United Kingdom), or thirty days (Export) from receipt of the Goods by the Customer, and the allegedly defective Goods are thereafter returned to Tarbat carriage paid.
- b. Except as provided by operation of law or by these Conditions of Sale, all conditions and warranties expressed or implied, statutory or otherwise and all other obligations and liabilities whatsoever of Tarbat whether in contract or in tort/delict or otherwise are limited to a sum equivalent to the price paid therefore to Tarbat.

## 13. INDEMNITY

The Customer shall indemnify Tarbat against all claims in respect of any loss, injury, or damage sustained by a third party arising from the sale of the Goods to the Customer howsoever caused and also against all actions, proceedings costs, claims, demands and expenses made brought or claimed against Tarbat in respect of the infringement of any patent, trade mark, registered design or similar right arising from the manufacture or supply of any Goods or the doing of any work or the use of any article or material by Tarbat to the design or specification or upon the instructions or order of the Customer.

## 14. LIEN

In addition to any right of lien given by law, Tarbat shall have a general lien upon all Goods to be supplied to the Customer in respect of all sums due from or claims against the Customer. Without prejudice to any other rights given by law to Tarbat, Tarbat may upon fourteen days' notice to the Customer sell any Goods of the Customer upon which Tarbat has any lien, and where the property in such Goods is at the time of such sale in the Customer, shall be deemed to be his agent for the purpose of effecting such sale. Tarbat may apply the proceeds of such sale towards the satisfaction of sums due from or claims against the Customer without prejudice to Tarbat's right to recover the balance thereof from the Customer.

## 15. PERFORMANCE OF CONTRACT

Each delivery shall be considered a separate transaction and the failure of any one delivery shall not affect the due performance of the contract as regards other deliveries.

## 16. FORCE MAJEURE

- a. If the performance of the contract shall be delayed by any circumstances or conditions beyond the control of Tarbat including (but without prejudice to the generality of the foregoing): war, industrial disputes, strikes, lockouts, riots, fire, storm, Act of God, accidents, non-availability or shortage of materials or labour, any statute, rule, bylaw, order or requisition made or issued by any Government or Government Department, local or other duly constituted authority, then Tarbat shall have the right to suspend further performance of the contract until such time as the cause of the delay shall no longer be present.
- b. If the performance of the contract by Tarbat shall be prevented by any such circumstances or conditions beyond the control of Tarbat, then Tarbat shall have the right to be discharged from further performance of and liability under the contract. If Tarbat exercises such right the Customer shall thereupon pay the contract price less a reasonable allowance for what has not been performed by Tarbat.

## 17. LAW

The contract shall be subject to and interpreted in accordance with the laws of Scotland and Tarbat and Customer agree to submit to the non-exclusive jurisdiction of the Scottish courts.