

# TERMS AND CONDITIONS OF SALE

## 1. INTERPRETATION

### 1.1 In these Conditions:-

“**Buyer**” means the person(s), firm or company who purchases the Goods from the Seller;

“**Contract**” means any contract between the Seller and the Buyer for the sale and purchase of the Goods, incorporating these Conditions;

“**Delivery Point**” means the Seller’s place of business at Etna Road, Falkirk or (if the Seller deems appropriate) the Seller’s place of business at Ashbourne, Co Meath, Ireland, or such other place as the Seller shall expressly agree in writing;

“**Goods**” means any goods agreed in the Contract to be supplied to the Buyer by the Seller (including any part or parts of them); and

“**Seller**” means Redeem plc, company number SC194216, having its registered office at Units C to E, 31/37 Etna Road, Middlefield Industrial Estate, Falkirk, Scotland FK2 9EG.

### 1.2 In these Conditions:-

1.2.1 references to any statute or statutory provision shall, unless the context otherwise required, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced;

1.2.2 references to one gender include the other genders, and to the singular include the plural and vice versa as the context admits or requires; and

1.2.3 headings will not affect the construction of these Conditions.

## 2. SELLER’S CONDITIONS OF SALE APPLY

2.1 These Conditions shall apply to and govern any Contract between the Seller and the Buyer to the exclusion of any other terms or conditions contained on or in any order form, letter, purchase order, specification, receipt, acknowledgement, or other document emanating from the Buyer. No variation of these Conditions shall be effective unless expressly agreed by the Seller in writing.

2.2 Each order for Goods by the Buyer from the Seller shall be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions. Any verbal orders placed by the Buyer shall be confirmed by the Buyer’s authorised representative in writing within 24 hours after the verbal order is made, failing which the Seller shall be entitled to resile from any Contract formed in reliance upon the verbal order, and that without liability to the Buyer. No order placed by the Buyer shall be deemed to be accepted by the Seller until an acknowledgement of order is issued by the Seller in the Seller’s standard form (“pro-forma”) or (if earlier) the Seller delivers the Goods to the Buyer.

2.3 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate to the reasonable satisfaction of the Seller, and shall provide the Seller with any necessary information relating to the Goods or the Contract within a reasonable time to enable the Seller to perform its obligations under the Contract. The Buyer shall on request provide the Seller with full identification details for those persons authorised by the Buyer to contract on its behalf, and the monetary extent and any other extent of their authority to bind the Buyer, and complete and sign the Seller’s Customer Account Form on request. Any prepayment of an order by the customer will be deemed as an irrevocable agreement that these Conditions shall apply to and govern the Contract to which the prepayment relates, to the exclusion of any other terms or conditions.

2.4 No quotation given or other document issued by the Seller shall constitute an offer for sale nor any representation that the Goods referred to in the quotation shall be available for sale. No order submitted by the Buyer shall be for a value less than £100.

## 3. PRICES AND IMPORT RESPONSIBILITIES

3.1 All price quotations are calculated from costs available at the date of such quotation or pro forma and include packaging but exclude delivery, loading, unloading, carriage, insurance, any credit or debit cards charges levied on payments made by the Buyer, and VAT, all of which are additionally payable unless otherwise specified in the Seller’s pro-forma. If there is an increase in such costs to the Seller before the date of dispatch, then the Seller may increase the price accordingly.

3.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for obtaining any necessary licences or other requisite documents, and paying all applicable customs duties and taxes in respect of importation of the Goods into the country of destination and their resale therein. The Buyer shall provide the Seller with any information which is necessary in order to comply with all labelling, marketing and other applicable legal requirements in the country of destination, including but not limited to any documents required to comply with UK VAT regulations.

3.3 If the Goods are to be supplied into a country which is not a member of the Organisation for Economic Co-operation and Development (or if the Seller otherwise reasonably requires) the Buyer shall prior to despatch of the Goods complete an undertaking in the Seller’s usual form agreeing to adhere to the OECD’s requirements in relation to the environmentally responsible use and disposal of the Goods.

## 4. DELIVERY

- 4.1 Unless otherwise agreed in writing the Buyer shall be bound to accept Goods ordered by him on being notified by the Seller that they are ready for delivery at the Delivery Point.
- 4.2 If the Buyer fails to take delivery at the time required by the Contract or to provide when required by the Seller any information or documents required by these Conditions, the Seller shall be entitled without prejudice to any other rights it may have to either treat the Contract as at an end and to resell the Goods, or to invoice the Buyer for the Goods whereupon payment in full shall become due forthwith and, in either case, to charge at rates giving an economic return for the handling and storage of Goods from the invoice date to the eventual date of delivery to the Buyer or disposal elsewhere, as the case may be. The Buyer shall be liable to pay any premium in respect of the insurance of such Goods from the date on which it is notified that the Goods are ready for delivery.
- 4.3 If Goods are contracted to be delivered by instalments late delivery of one instalment shall not entitle the Buyer to reject any other instalment under the same Contract.
- 4.4 Any date of delivery given by the Seller to the Buyer shall be an estimate only and while the Seller will endeavour to comply with any such date it shall not be responsible for late delivery. Time of delivery shall not be of the essence of the Contract, nor shall it be capable of being made so by notice. Without prejudice to the generality of the foregoing the Seller shall not be liable for late delivery or failure to deliver through any cause which is beyond the control of the Seller.
- 4.5 Unless otherwise expressly agreed by the Seller in writing, the Buyer will provide at its own expense at the Delivery Point adequate and appropriate equipment and manual labour for loading the Goods.
- 4.6 If the Seller delivers to the Buyer a quantity of Goods of up to 10% more or less than that ordered by the Buyer, the Buyer shall not be entitled to reject the Goods or any of them by reason of the surplus or shortfall, and shall pay for such Goods at the pro rata rate for the Contract.
- 4.7 The quantity of any consignment of Goods as recorded by the Seller upon despatch from the Seller's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can prove otherwise to the satisfaction of the Seller.
- 4.8 The Seller shall not be liable for any non-delivery of Goods (even if caused by the Seller's negligence) unless written notice is given to the Seller within five (5) days of the date when the Goods would in the ordinary course of events have been received.
- 4.9 Any liability of the Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 4.10 Where palletised or containered deliveries are requested or necessary, the costs of procuring pallets, containers and other packaging and delivery materials may be charged as an extra expense at the Seller's standard rates, which the Buyer shall pay in addition to the price for the Goods.

## 5. RISK

All Goods shall be at the Buyer's risk from the time of notification in accordance with Condition 4.1 above or (where no such notification is given) when delivery to the Seller or carrier takes place at the Delivery Point.

## 6. RETENTION OF TITLE

- 6.1 Goods shall remain the property of the Seller until payment of all sums due to the Seller from the Buyer in respect of the Contract, and on any other accounts whatsoever, have been received in full by the Seller in cleared funds.
- 6.2 Until the property in the Goods is vested in the Buyer, in accordance with Condition 6.1 above, the Buyer shall not pledge and shall store separately and mark the Goods so that they are readily identifiable as the property of the Seller and shall hold the Goods on a fiduciary basis as agent for the Seller.
- 6.3 Until otherwise notified by the Seller pursuant to Condition 6.4 below, or until the happening of any of the events set out in Condition 6.5 below:-
- 6.3.1 the Buyer may use the Goods in the normal course of its business;
- 6.3.2 the Buyer may sell the Goods in the ordinary course of its business, in which event the Buyer shall hold the proceeds of the sale upon trust for the Seller and shall cause such proceeds to be paid into a separate bank account and if within seven days of such sale the Buyer has not received the proceeds of such sale the Buyer will, if requested to do so, assign to the Seller all rights it may have against the purchaser of such Goods; and
- 6.3.3 the Buyer shall maintain the Goods in a satisfactory and saleable condition and at the Buyer's own expense insure the Goods for their full market price against all risks to the reasonable satisfaction of the Seller, to whom the Buyer shall on request exhibit evidence of such insurance.
- 6.4 The Seller shall be entitled to serve notice on the Buyer indicating its intention to retake possession of its Goods and/or terminating the Buyer's authority to use or sell the Goods under Condition 6.4 above if the Buyer is in breach of the payment terms under this Contract. On receipt of such notice from the Seller or on the happening of any of the events set out in Condition 6.6 below:-
- 6.4.1 the Buyer's authority to use or sell the Goods shall forthwith cease; and
- 6.4.2 all Goods which are the property of the Seller shall be immediately delivered by the Buyer to the Seller or to the Seller's order, and the Seller by its employees or agents shall have the right to enter upon any land, building or vehicles of the Buyer to take possession of its Goods; the Buyer shall procure that the Seller by its agents or

employees shall have the right to enter upon any land, buildings or vehicles of any third party to take possession of the Goods; and any expenses, including legal fees, incurred by the Seller in so taking possession shall be payable by the Buyer.

- 6.5 The events referred to in Conditions 6.3 and 6.4 above are:-
- 6.5.1 it comes to the Buyer's attention that a receiver or manager is to be or has been appointed over or if any encumbrancer or creditor shall take possession of all or any part of its assets;
  - 6.5.2 it comes to the Buyer's attention that a petition to wind up or other process to liquidate the Buyer is to be or has been presented or issued or that a resolution to wind up the Buyer (save for the purposes of a bona fide reconstruction or amalgamation) has been tabled or passed;
  - 6.5.3 a decision by the Buyer that the Buyer intends to make an arrangement with its creditors or to stop payment or cease or threaten to cease business or a major part thereof;
  - 6.5.4 the Buyer resolving to go into administration or any court making an administration order in respect of the Buyer or an administrator being appointed or documents filed with the court for the appointment of an administrator or a notice of intention to appoint an administrator being given by another party or its directors or a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
  - 6.5.5 any diligence or other process is enforced upon or against any property of the Buyer;
  - 6.5.6 the bankruptcy or sequestration of the Buyer or the inability of the Buyer to pay its debts as such expression is defined in section 123 of the Insolvency Act 1986;
  - 6.5.7 the Seller reasonably apprehending that any of the above mentioned events is about to occur in relation to the Buyer and notifying the Buyer accordingly; or
  - 6.5.8 anything analogous to any of the foregoing under the law of any jurisdiction occurring in relation to the Buyer.
- 6.6 Where the Seller is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Seller to the Buyer in the order in which they were invoiced to the Buyer.
- 6.7 On termination of the Contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.
- 7. LIMITATION OF SELLER'S LIABILITY**
- 7.1 The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 7.1.1 any breach of these conditions;
  - 7.1.2 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
  - 7.1.3 any representation, statement or delictual act or omission including negligence arising under or in connection with a Contract.
- 7.2 Nothing in these conditions excludes or limits the liability of the Seller:
- 7.2.1 for death or personal injury caused by the Seller's negligence; or
  - 7.2.2 under section 2(3) of the Consumer Protection Act 1987; or
  - 7.2.3 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or
  - 7.2.4 for fraud or fraudulent misrepresentation.
- 7.3 Subject to condition 7.2:
- 7.3.1 the Seller's total liability in contract, delict (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of a Contract shall be limited to the Contract price; and
  - 7.3.2 the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with a Contract.
- 7.4 The Seller shall not be bound by any warranty or representation given by or made on its behalf unless specifically stated in writing and expressly signed stating it is to be incorporated in the Contract.
- 7.5 The Seller shall be under no liability if the Goods are not paid for by the due date.
- 7.6 The Seller's prices are determined on the basis of the limits of liability set out in this Condition 7. The Buyer may by written notice to the Seller request the Seller to agree a higher level of liability, provided that:

- 7.6.1 an additional price is charged to compensate the Seller for the additional exposure to liability accepted by the Seller; and
- 7.6.2 the terms of the higher level of liability are agreed in writing between the Buyer and Seller, and signed by a director of the Seller.

## **8. CONSEQUENTIAL LOSS**

Without prejudice to the terms of Condition 7, the Seller shall not in any event be liable to the Buyer in contract or delict or otherwise for any indirect or consequential loss or damage whenever or howsoever arising, including without limitation loss of profit, loss of revenue, economic loss, depletion of goodwill and pecuniary loss of any kind whatsoever.

## **9. PAYMENT**

- 9.1 All sums due to the Seller in respect of a Contract shall be payable in the currency agreed by the Seller and (subject to condition 9.2) shall be due to be paid in cleared funds prior to despatch of the Goods.
- 9.2 Where the Goods consist of printer cartridges and the Buyer has previously ordered Goods from the Seller without incident, the Seller may in its sole discretion allow the Buyer credit terms, subject to the Seller being satisfied with the results of any credit checks on the Buyer ordered by the Seller (in respect of which the Buyer shall provide such information as the Seller may require.) If credit terms are offered then (unless otherwise specified in writing by the Seller) all sums for which credit is given shall be paid within 30 days of the date of the Seller's invoice.
- 9.3 Time of payment shall be of the essence of the Contract. If the Buyer does not pay the whole sums due, on the due date, the Seller may:-
- 9.3.1 suspend delivery of Goods under all or any of the Contracts with the Buyer (in the Seller's sole discretion); and/or
- 9.3.2 require payment in advance for any Goods ordered by the Buyer; and/or
- 9.3.2 charge interest at the rate of 6% per annum over the base rate from time to time of the Bank of Scotland on any overdue account from the day following that on which payment was due until payment by way of cleared funds has been received in full. Without prejudice to the foregoing provision, the Seller reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 9.4 No payment shall be deemed to have been received until the Seller has received cleared funds.
- 9.5 All payments payable to the Seller under a Contract shall become due immediately upon termination of the Contract despite any other provision.
- 9.5 The Buyer shall make all payments due under each Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer. The Seller shall be entitled to apply and appropriate any payment received from the Buyer to such of the Goods (or to any goods supplied under any other contact between the Seller and the Buyer) as the Seller may think fit (notwithstanding any purported application and appropriation by the Buyer).
- 9.6 The Seller may at its sole discretion accept payment from the Buyer by debit or credit card. A charge of 2% will be levied on the total payment to cover the Seller's charges for this service.

## **10. RESCISSION AND CANCELLATION**

- 10.1 The Seller shall have the option (without prejudice to any of its other rights against the Buyer) by notice in writing to the Buyer to rescind any Contract between the Seller and the Buyer or to suspend delivery (in each case without liability to the Buyer) in the following events:-
- 10.1.1 should any sum owing by the Buyer to the Seller be overdue whether under the same or any other Contract; or
- 10.1.2 should the Buyer be in breach of any term of the Contract or any other Contract with the Seller (including but not limited to Condition 3.3); or
- 10.1.3 should any of the events set out in Condition 6.5 occur.
- 10.2 If the Buyer wishes to cancel any Contract before it is performed, it must first obtain the express written consent of the Seller, who shall be entitled to charge a cancellation charge, if the Contract is cancelled 7 days or fewer prior to the due date for despatch of the Goods of 30% of the Contract value.

## **11. INSPECTION AND COMPLAINTS POLICY**

- 11.1 On delivery of the Goods the Buyer shall inspect the Goods within 3 working days of receipt, and any claim which is based on any defect in the number, quality or condition of the Goods or their failure to correspond with specification shall be notified to the Seller in full, within five (5) working days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time being no more than seven (7) days after the defect or failure was discovered or ought reasonably to have been discovered. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall remain bound to have paid the price as if the Goods had been delivered in accordance with the Contract.
- 11.2 Where any claim in respect of the Goods which is based on any defect in the number, quality or condition of the Goods or their failure to meet specification is notified in writing to the Seller in accordance with these Conditions, the Seller shall be entitled to inspect the Goods in their alleged defective state and/or require the Buyer to send to the Seller at the Buyer's

expense photographic or other evidence of the alleged defective state of the Goods and/or require the Buyer to return at the Buyer's expense samples of the Goods for inspection in the United Kingdom and then, if the Seller accepts the claim is valid, to repair or replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer or allow the Buyer credit for the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer. Any Goods replaced shall belong to the Seller and shall be returned to the Seller by the Buyer at the Buyer's expense.

- 11.3 The Seller shall have no liability whatsoever for any under-delivery, failure to deliver, damage or loss where it arises as a result or consequence (whether direct or indirect) of the actions or omissions of the Buyer, its employees, agents, carriers or sub-contractors.

## **12. QUALITY AND WARRANTIES**

- 12.1 The quality, description and specification of the Goods shall be as set out in the Seller's pro-forma. The Seller reserves the right, at any time, to make any changes in the specifications for the Goods which are required to conform with any applicable legal requirements or which do not materially and adversely affect the quality or performance of the Goods. The Seller may in its reasonable discretion and without liability to the Buyer replace the Goods ordered with alternative goods which the Seller considers to be of equivalent make, model, compatibility and/or value.
- 12.2 All drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of any Contract.
- 12.3 Seller may (entirely at the Seller's discretion) assign to the Buyer, to the extent to which the Seller has the right to do so, the benefit of any express guarantee or warranty received by the Seller from the manufacturer or supplier of the Goods.
- 12.4 The Buyer acknowledges that the Goods may be used, and accordingly all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from each Contract.
- 12.5 Where the Goods are required for a purpose other than the usual purpose for which such Goods are commonly supplied, then no condition or warranty of fitness for that unusual purpose is granted or shall be implied unless the Buyer has made known to the Seller in writing prior to conclusion of the Contract the exact purpose to which such Goods are intended to be put, and the Seller has expressly acknowledged in writing prior to or on conclusion of the Contract that such Goods shall be fit for such purpose.
- 12.6 The Seller may from time to time in its discretion issue and amend standard warranty conditions for the Goods (the "Redeem Warranty Conditions") which shall from time to time be made available on the Seller's website and may be obtained from the Seller on request, and accordingly (subject to any applicable exclusion of warranty elsewhere in these Conditions) warrants that Goods described in the Seller's pro-forma as being in a certain category of Goods set out in the Redeem Warranty Conditions shall exhibit any specific characteristics or qualities set out for such Goods in the Redeem Warranty Conditions.
- 12.7 Where the Goods are sold as damaged or beyond economical repair (BER) then no condition or warranty of fitness for purpose is granted or shall be implied, and the Buyer acknowledges that it is purchasing the Goods at a discounted price which reflects that lack of condition or warranty.
- 12.8 The Seller shall not be liable for any breach of warranty in respect of Goods if:
- 12.8.1 the Buyer sells or makes any use of such Goods; or
  - 12.8.2 the Goods have been received in acceptable condition and inspected accordingly under Condition 11; or
  - 12.8.3 the defect arises because the Buyer failed to follow good trade practice in relation to the storage, modification, processing, refilling, remanufacturing, alteration, repair, installation, commissioning, maintenance or use of such Goods.

## **13. WAIVER**

- 13.1.1 Failure or delay by the Seller in enforcing or partially enforcing any provision of a Contract shall not be construed as a waiver of any of its rights under that or any other Contract.
- 13.1.2 Any waiver by the Seller of any breach of, or any default under, any provision of a Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of that or any other Contract.

## **14. FORCE MAJEURE**

The Seller reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials; Provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

## **15. ASSIGNATION**

- 15.1 The Buyer shall not be entitled to assign any Contract or any part of any Contract without the express prior consent of the Seller.

15.2 The Seller shall be entitled to assign or sub-contact any Contract or any part of any Contract to any third party, and shall be entitled to perform any obligation under a Contract through its subsidiary, holding company or a subsidiary of such holding company.

**16. SEPARATE REMEDIES**

Each right or remedy of the Seller under a Contract is without prejudice to any other right or remedy of the Seller, whether under that Contract or not.

**17. SEVERABILITY**

If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

**18. THIRD PARTY RIGHTS**

The parties to this Contract do not intend that any term of a Contract will be enforceable by virtue of the jus quaesitum tertio or any statutory or other rule of law by any person that is not a party to it.

**19. NOTICES**

19.1 All notices between the Buyer and Seller concerning this Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or email:-

19.1.1 (in case of communications to the Seller) to its registered office or such other address as shall be notified to the Buyer by the Seller in accordance with this Condition 19; or

19.1.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of this Contract or such other address as shall be notified to the Seller by the Buyer in accordance with this Condition 19.

19.2 Communications shall be deemed to have been received:-

19.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);

19.2.2 if delivered by hand, on the day of delivery;

19.2.3 if sent by fax or email on a working day prior to 4 p.m., at the time of transmission and otherwise on the next working day.

**20. GOVERNING LAW AND JURISDICTION**

20.1 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Scots law and the parties submit to the non-exclusive jurisdiction of the Scottish courts. For the avoidance of doubt, the Seller and Buyer do not intend that the Uniform Laws on International Sales Act 1967 shall apply to any Contract.