

## TERMS AND CONDITIONS

### 1. CONTENT OF THIS CONTRACT

In this contract

"the Company" means IDU Trading Limited

"the Goods" means the goods or services sold or supplied by the Company to the Customer under this contact

"this Contract" means a contract between the Customer and the company incorporating these Conditions

This contract governs the sale of Goods by the Company to the exclusion of all other representations, statements, understanding, negotiations, proposals or agreements.

Where the Customer submits its own order form these terms shall prevail if they conflict with the terms in that form, even if that form includes a condition similar to this one.

No employee of the Company or its agents has authority to make any warranty, statement or promise concerning the Goods except in writing signed by a duly authorised employee of the Company.

The Customer's order shall be subject to acceptance by the Company.

Orders are accepted and estimates of delivery and installation or assembly given conditionally on the Company being able to secure the necessary labour or material and without responsibility for delays or non-fulfilment arising through risk and uncertainties of manufacture, strikes, accidents, force majeure or otherwise howsoever.

All drawings, descriptive and forwarding specifications, particulars of weights and dimensions are approximate only and not binding and illustrations contained on website, online, in catalogues, magazines, quotes, price lists, sales literature and other advertisement material are for the purpose of general description only and none of these shall form part of this Contract.

### 2. QUALITY AND STANDARDS

Where a BSI specification or code is applicable for Goods, quotations will be given for patterns and or equipment to that specification code. The Company applies risk assessments to sub contracted services provided and monitors quality and standard of the service provided on each sale.

### 3. PRICES

We reserve the right of invoice at the price ruling at date of despatch. All prices, unless otherwise stated, are for delivery "ex-works" to mainland UK and are inclusive of value added tax but exclusive of any other tax or duty which is or may be levied or charged in the UK or in the country of destination. Any such taxes, duties or charges shall be paid by the Customer.

Unless otherwise specified, packing cases and pallets will be charged extra but will be credited in full on return carriage paid and in good condition within one month of receipt by the Customer. Export packing cases are not returnable.

The prices quoted are subject to any increase in the cost of labour or materials between the date of quotation and despatch of Goods and do not include installation costs.

If the Customer requires alteration to the order the price will be varied accordingly and confirmed in writing.

# MODUS ACTIVE

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Tel: 0800 999 5699  
info@modusactive.co.uk

IDU Trading Ltd (t/a Modus Active)  
Unit D1, Central Trading Estate  
Hope Street, Dudley DY2 8RS

## 4. PROPERTY OF GOODS

Property of Goods delivered by the Company shall not pass to the Customer until payment is made in full. In case of default in payment, the Company shall be granted access rights in order to repossess the Goods.

At all times before payment in full: the Goods shall stand in the Customer's books in the name of the Company, and the Customer shall take appropriate steps to notify third parties to the Company's interest in the Goods: and in the even of threatened seizure of the Goods or of appointment of a receiver or liquidator, or any other event entitling the Company to terminate this Contract under paragraph 9, the Customer shall immediately notify the Company and the Company shall be entitled to enter the Customer's premises and repossess the Goods.

If the Customer delivers Goods to a third party before payment has been made in full to the Company, the Customer shall hold all sums received for such Goods as trustee for the Company and shall remit them to the Company on receipt. Risk in the Goods shall pass on delivery.

## 5. DELIVERY

Delivery shall be "ex-works" unless the Company agrees otherwise. If the Contract includes delivery by the Company the Customer shall be responsible for giving the Company clear and accurate instruction as to the place of delivery. Time shall not be of the essence in respect of delivery. If the Goods are to be delivered by a date specified by the Customer or by the Company such date is to be treated as an estimate only. The Company does not guarantee that the Goods will be delivered by such date or accept any liability for failure to meet the date.

## 6. SETTLEMENT TERMS

Homes sales: No credit facility is offered on sales and payment is required in full on order of goods. Where a credit facility has specifically been offered and does exist on a sale the accounts are due for payment 30 days nett. Where special discount terms are quoted, the terms must be strictly adhered to otherwise the account will be charged net. The Customer shall, unless otherwise agreed in writing, pay all sums due to the Company under Contract prior to delivery in cash or cleared cheque in pound sterling.

If or any reason the Company does not receive unconditional payment in full, on the date of order or within 30 days from delivery then the Company may charge fees under the late payment of commercial debts regulations 2002 plus daily interest on such payments to run from day to day to accrue before as well as after any judgment.

Export Sales: Special terms will be quoted for export deliveries.

Home Services: Where services are provided by a third party contractor on behalf of the Company and special instalment terms are quoted, the terms must be strictly adhered to otherwise the account will be charged net. The Customer shall, unless otherwise agreed in writing, pay 80% of all sums due to the Company under Contract prior to delivery in cash or cleared cheque in pound sterling and balance 20% on completion of "works". If or any reason the Company does not receive unconditional payment in full on completion of "works", then the Company may charge fees under the late payment of commercial debts regulations 2002 plus daily interest on such payments to run from day to day to accrue before as well as after any judgment.

## 7. DEFECTS

The Company does not accept responsibility for any damage, shortage or loss in transit unless:

Non-receipt of Goods is advised to the Company within 10 days from the date of the Company's advice/delivery note: and

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Any breakage, damage or shortage is advised to the Company and carriers within 3 days of receipt of Goods provided that the carrier's note is marked "unexamined".

All sizes are approximate. Variations during the course of manufacture cannot be avoided and liability is not accepted for them.

When Goods are offered and supplied to a Customer's designs and specifications no guarantee is given or implied of their suitability for the purpose for which they are used.

If during the period of twelve months from the date of invoice the Company is notified of a fault in the Goods which is due to faulty design, manufacturing or materials the Company will replace or (as its option) repair the fault part free of charge provided that:

the Goods have been properly kept, used and maintained in strict accordance with the manufacturer's or the Company's instructions, if any, and have not been modified.

The fault is not due to accidental or wilful damage, interference with or maintenance of the Goods by persons other than the Company or its duly appointed Agent.

If the Goods have been manufactured to the Customer's design, the fault is not due to faulty design by the Company.

This guarantee does not cover fair wear and tear.

The Customer will be required to return faulty Goods to the Company

## 8. LIMITATIONS OF LIABILITY

Except where expressly contained in this Contract, all warranties, conditions, undertakings and representations, express or implied, statutory or otherwise, are excluded and the Company has no obligation, duty or liability in Contract, tort (including negligence or breach of statutory duty) or otherwise.

In any event, the Company's liability arising for any reason in connection with this Contract shall be limited to the original invoice value of the Goods or Services.

In no circumstances will the Company be liable in Contract, tort (including negligence or breach of statutory duty) or otherwise for loss (whether direct or indirect) of profits, business or anticipated savings, or for any indirect or consequential loss or damage whatsoever.

The Company does not exclude or restrict liability for death or personal injury resulting from its own negligence.

Each provision of this Contract is to be construed as a separate limitation applying and surviving even if for any reason one or other of the said provisions held unreasonable in any circumstances and shall remain in force notwithstanding termination of this Contract.

## 9. TERMINATION

The Company shall have the right forthwith to terminate this Contract and to claim for any resulting losses or expenses if:

the Customer commits a breach of this Contract and fails to remedy the breach within a reasonable time of a written notice to do so: or

the Customer commits any act of bankruptcy or compounds with its creditors; or a petition or receiving order in bankruptcy is presented or made against the Customer; or a petition for an administration order is presented in relation to the Customer; or a resolution or petition to wind up the Customer is passed or presented (otherwise than for reconstruction or amalgamation) or a receiver or administrative receiver or any similar event occurs under the laws of the state where the Customer was incorporated.

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## 10. FORCE MAJEURE

The Company shall not be liable in respect of any breach of this Contract due to any cause beyond its reasonable control including: Act of God, inclement weather, flood, lightning or fire, industrial actions, or lockouts; the act or omission of Government, highways authorities, or other competent authority, war, military operations or riot; the act or omission of any party for whom the Company is not responsible.

## 11. INFRINGEMENTS

The Customer shall indemnify the Company against all damages, penalties, costs and expenses arising out of any claim by any third party for any infringement or alleged infringement of any third party's industrial or intellectual property rights in any work carried out in accordance with the Customers specification.

Copyright in all drawings or tracings prepared by the Company are the Company's property and copyright and must be regarded as confidential. Such drawings or tracings must not be published or disclosed under any circumstances without the Company's permission in writing.

## 12. THIRD PARTY CONTRACTORS

The Customer is obliged to ensure the necessary Health and Safety at Work risk assessments and reviews are conducted in relation to any works undertaken on site by 3<sup>rd</sup> Party contractors prior to commencement and during works on site. This also includes ensuring the necessary Public Liability insurance certification is in place. The Company does not accept responsibility for any damage or liability arising from the works undertaken by a 3<sup>rd</sup> Party contractor where the necessary H&S checks were not undertaken by the Customer.

## 13. APPLICABLE LAW

The Law of England shall be the proper law of Contract.