

Boffins (Wycombe) Ltd - Terms and Conditions of Trading

General: In these terms and conditions of trading 'Boffins' means Boffins (Wycombe) Ltd, 'Customer' means the company or person to whom Boffins has agreed to supply goods and/or services, and 'Goods' means any products and / or services supplied by Boffins including services supplied to Boffins by 3rd parties. If Customer deals with Boffins as a consumer nothing in these terms is intended to affect, nor will it affect, a consumer's statutory rights.

Orders: All orders are subject to availability of Goods, and capacity, and are subject to written acceptance by Boffins. Any prior indications by Boffins by letter, telephone, fax, email, or verbally shall be provisional only. Cancellation is not permitted except where expressly agreed in writing by a director of Boffins. A list of directors is available on request. If Boffins agrees to cancel Customer shall indemnify Boffins against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges, and expenses incurred as a result of the cancellation.

Prices: All catalogues, price lists, and other promotional materials are intended as a guide only and no variations shall give rise to a claim against Boffins. Prices quoted are subject to acceptance of Customer's order by Boffins. Unless specifically included in the quotation, prices quoted do not include delivery and Value Added Tax which will be added. Boffins reserves the right, by giving notice to Customer, to adjust the price of Goods to take account of any increase in costs owing to factors beyond Boffins' control.

Software Products: Copyright and other intellectual property rights in software products supplied by Boffins either already loaded on hardware products or supplied separately are owned by third parties or by Boffins. Software products are supplied on condition Customer accepts the terms of the software owner's licence agreement. Title in software products does not pass to Customer. Computer programs commissioned by Customer are subject to separate terms which are available on request. Software owned by Boffins is licensed for use by the original Customer only and the licence is subject to the restrictions and limits of liability in this agreement.

Delivery: Unless otherwise agreed, delivery will be at Boffins' address. Delivery dates and times quoted by Boffins are from receipt of order. All dates and times quoted are estimates and any delay in meeting delivery dates will neither give rise to a right to cancel the order, nor give rise to any liability for loss or damage arising from failure to deliver on the stated date. Boffins reserves the right to deliver by instalments and to invoice each separately.

Payment: Unless otherwise agreed in writing all invoices are payable before delivery of Goods or against pro-forma invoice whichever is the earlier. If Customer is an approved account holder, invoices are payable net (and any right of set off is hereby excluded) not later than ten days after invoice date. Time for payment is of the essence. If Customer fails to make payment as provided for above, Boffins shall have the right to suspend supply and, in addition to other remedies, to charge interest on overdue accounts at the rate of 2% per month until payment is received.

Insolvency: In the event that Customer is declared bankrupt or insolvent, or compounds with its creditors, or has distress levied against its goods or assets, or becomes subject to an administration order, has a receiver or administrative receiver appointed over any of Customer's property, goes into liquidation or ceases to carry on business then Boffins shall have the right to suspend supply of Goods until payment has been made for Goods already delivered and for all outstanding orders. In any event Goods already delivered in which Boffins retains title shall be either paid for in full or returned forthwith.

Title: Except for software products where ownership does not pass, ownership of the Goods does not pass to Customer until payment due under all contracts with Boffins is made in full. Until ownership of the Goods passes to Customer:

- a) Customer holds the Goods as fiduciary agent and bailee for Boffins;
- b) The Goods must be stored and marked in such a way as to be clearly identifiable as belonging to Boffins;
- c) Customer shall keep a record of the numbers of serial numbered Goods;
- d) The Goods must be kept in good repair and insured for an amount equal to the contract price;
- e) Customer shall not be entitled to sub-sell charge encumber or otherwise deal with the Goods.

Risk: Risk in the Goods shall pass to Customer as soon as they are delivered to, or collected by, Customer, or its agent, whichever is the earlier.

Warranties: If on delivery, the Goods are found to be in a condition or form that, but for this condition, would have entitled Customer to terminate the contract or claim damages, Boffins reserve the right to repair or replace the Goods. Boffins shall repair or, at its option, replace Goods found to be defective because of parts or workmanship during the period of 90 days from delivery. In the case of defects or faulty workmanship in Goods or part of the Goods supplied but not manufactured by Boffins, Customer shall not be entitled to receive any greater benefit under this agreement than shall be received by Boffins under any guarantee or warranty given to Boffins by the manufacturers or suppliers of the Goods. The warranties in this section do not extend to defects caused by installation of computer games, shareware, or freeware, not previously tested and approved by Boffins, or by improper or abnormal use, improper maintenance, repair or modification of the Goods not authorised by Boffins. Boffins does not warrant that software products will meet Customers data processing requirements or the operation of the software will be uninterrupted or error free or the function of the software products will operate in the combinations Customer selects for use. To claim the benefit of this warranty Customer must inform Boffins of a relevant defect within 7 working days of discovering it and return the Goods to Boffins at Customer's expense. The Goods will be at Customer's risk in respect of accidental loss while in transit to Boffins. In return for the benefit of these warranties, Customer agrees that all warranties conditions or other terms implied by law are excluded to the fullest extent permitted by law.

Integrity of Data: Whilst Boffins will take care not to damage data files (where practicable) Boffins does not guarantee the integrity of the data held on computers in their care. The safe backup of data is the sole responsibility of Customer.

Liability: Boffins is not liable for any consequential or indirect loss suffered by Customer, whether it arises from breach of a duty in contract, tort or in any other way including negligence. Non-exhaustive illustrations of consequential or indirect loss would be loss or corruption of data, loss of profits; loss of future business or orders; loss of reputation, connection, or goodwill; loss of production or anticipated savings; death or personal injury, damage to property; damages, costs or expenses payable by Customer to its customers or sub-contractors or other third parties. In respect of direct loss, Boffins' total liability for any one claim or for the total of all claims arising from any one act or default (whether arising from our negligence or otherwise) shall not exceed the contract price which in the case of contracts billed monthly or quarterly shall be equal to the monthly / quarterly price charged. Prior to making any claim, Customer must afford Boffins a reasonable opportunity to fix notified deficiencies in the Goods. Nothing in this clause is deemed to exclude or restrict Boffins' liability to Customer for death or personal injury resulting from Boffins' negligence.

Force Majeure: Boffins is not liable for any failure to deliver the Goods arising from circumstances outside its control. If the circumstances preventing delivery continue for 3 months, either party may cancel the contract immediately by notice to the other. If the contract is cancelled in this way, neither party is liable to compensate the other for any loss or damage caused by the failure to deliver.

Inspection: Boffins shall not be liable for any shortage or damage to the Goods on delivery unless Customer complies with all of the following conditions:

- a) Customer must whenever possible inspect the Goods on delivery;
- b) where the Goods cannot be inspected on delivery then the delivery note must be marked "not inspected";
- c) Customer must give Boffins written notice of the alleged defect, shortage in quantity, damage or failure to comply with its description or sample, or non performance within 5 days of delivery; and
- d) Customer must give Boffins a reasonable opportunity to inspect the Goods before Customer uses, or modifies them.

Severability: If any term or provision of this agreement or any part thereof shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, the term or provision shall be separable from this agreement and shall be deemed to be deleted from this agreement or suitably modified to make such term or provision valid or effective.

Law: Unless otherwise agreed in writing, all contracts shall be construed and interpreted in accordance with the laws of England and any dispute arising under them are subject to the non-exclusive jurisdiction of the English courts.