

## Standard Terms and Conditions for the Sale of Goods and Services

### 1. DEFINITIONS AND INTERPRETATION

1.1. In these Conditions the following words will have the following meanings:

<b>“Company”</b>	Kruise UK Limited (Company number 02543272);
<b>“Conditions”</b>	subject to condition 2.1, the terms and conditions set out in this document;
<b>“Contract”</b>	any contract made between the Company and the Customer for the supply of Goods and/or Services formed in accordance with condition 2.2;
<b>“Customer”</b>	the person who purchases Goods and/or Services from the Company;
<b>“Goods”</b>	the goods to be supplied by the Company to the Customer under any Contract including any of them or any part of them;
<b>“Premises”</b>	the premises at which the Company is required to provide the Services;
<b>“Price”</b>	the price as provided in conditions 3.1 and 3.2; and
<b>“Services”</b>	the services to be provided by the Company for the Customer under any Contract as described in such Contract including any of them or any part of them.
<b>“Capital equipment”</b>	is defined as an item applied as a CAPEX cost to the customer;

1.2. Words in the singular include the plural and vice versa and a reference to one gender is to any other gender.

1.3. The words **“include”** and **“including”** will be construed in each case as if followed by the words **“without any limitation”**.

1.4. A reference to any statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted from time to time.

### 2. APPLICATION OF TERMS

2.1. Each Contract will incorporate and be subject to these Conditions (whether or not all of the provisions are applicable to the Customer) to the exclusion of all other terms and conditions (including any terms the Customer purports to apply). No variation to these Conditions will have effect unless in writing and signed by a duly authorised representative of each of the Company and the Customer.

2.2. Where:

2.2.1. the Customer places an order or accepts a quotation issued by the Company, a contract will only be formed if such order or acceptance of a quotation is accepted by the Company; and

2.2.2. a third party notifies the Company that it wishes to purchase certain goods through its account with the Customer the Company will submit an order for those goods to the Customer for approval and, unless otherwise agreed by the Company, a contract will only be formed if the Company receives approval of such order from the Customer [within 30 days starting on the date of such order];

2.2.3. the Company does not have any Goods in stock at the time it receives the Customer’s order (**“Back Order Goods”**), then the Company will inform the Customer and a contract will only be formed in respect of that order if the Customer confirms that it still wishes to purchase such Back Order Goods.

2.3. [Unless otherwise agreed in writing by the Company and the Customer], the Customer will only have the right to cancel any order for Goods if the Company has failed to deliver all of the Goods under such order to the Customer (through no fault on the part of the Customer) within 30 days starting on the date of receipt by the Company of such order or, in the case of Back Order Goods, within 30 days starting on the date the Company notifies the Customer that it has received such Back Order Goods in stock.

2.4. All drawings, descriptions and advertising issued by the Company (including in any brochures) are issued for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of any Contract and no sale is by sample.

2.5. Any typographical or other error or omission in any quotation, invoice or other document issued by the Company will be subject to correction without liability on the part of the Company.

2.6. The Goods are intended for resale within the United Kingdom and, except where a director of the Company has otherwise agreed in writing, the Goods must not be resold outside the United Kingdom and the Customer shall indemnify and keep indemnified the Company against all liabilities suffered by the Company as a result of any breach of this condition 2.6.

### 3. PRICE AND PAYMENT

3.1. The price for the Goods and/or the Services under each Contract will be as specified in the price list of the Company that is in force at the time of formation of such Contract or as otherwise agreed in writing by the Company and the Customer. For any order value of:

3.1.1. more than £700 (excluding VAT), the price will include the costs of delivery of the Goods to an address in the United Kingdom;

3.1.2. £700 or less (excluding VAT) the Customer shall pay the Company the cost of delivery in addition to the price.

3.2. The Company may increase the Price of:

- 3.2.1. the Services if the Company incurs additional costs or expenses in providing the Services because the Customer fails to comply with its any or all of its obligations under condition 6.
- 3.2.2. the Goods if the Customer fails to accept delivery of them on the date specified for delivery so that the Company is required to re-deliver them.
- 3.3. The Company may issue an invoice for the Goods under each order of the Customer before, on or after delivery of such Goods and the amount payable for the Services will be invoiced at the same time as the Goods to which the Services relate. Except as otherwise agreed in writing by the Company, the Customer shall pay each invoice (without any deduction, withholding or set-off unless required by law or a valid court order) within 30 days starting on the date of such invoice.
- 3.4. The Price is exclusive of VAT which the Customer shall pay in addition to and at the same time as the Price under condition 3.2 subject to receipt of a VAT invoice.
- 3.5. If the Customer fails to pay any sum when due then, without prejudice to the Company's other rights and remedies:
  - 3.5.1. that sum will bear interest from the due date for payment at the rate of 1% per month until payment in full, whether before or after any judgment (a part of a month being treated as a full month for the purposes of calculating interest). In the alternative, the Company reserves the right to claim interest under the Late Payment of commercial Debts (Interest) Act 1998; and/or
  - 3.5.2. the Company may suspend performance of any or all Contracts; and
  - 3.5.3. the Customer shall reimburse all costs, charges and expenses reasonably incurred by the Company in recovering such sum from the Customer.
- 3.6. The Company may:
  - 3.6.1. appropriate any payment made by the Customer to such invoices for Goods and/or Services as the Company thinks fit, despite any purported appropriation by the Customer; and
  - 3.6.2. suspend the fulfilment of any order for Goods in whole or in part to the extent that fulfilment would result in the credit limit that is agreed by the Company with the Customer from time to time being exceeded.
- 4. DELIVERY**
- 4.1. The Company shall deliver the Goods and (if applicable) provide the Services under each Contract on the date specified in such Contract or, if no date is specified, on the date or within the period that is [notified by the Company to the Customer]. However, if the Company fails to do so and this is either the fault of any supplier or carrier on whom the Company is dependent or of the Customer then the Company will not be in breach of contract nor will the Company have any liability to the Customer for any loss arising from such failure.
- 4.2. Delivery of the Goods under each Contract will take place when the Goods are delivered to the Customer at its address specified in such Contract.
- 4.3. The quantity of the Goods delivered to the Customer as recorded by the Company and signed for by the Customer upon delivery will be conclusive evidence of the quantity received by the Customer on such delivery. A tolerance in the quantity of certain Goods may apply where this is stated on [the packaging or labelling of such Goods] and, if the quantity of such Goods delivered to the Customer is within the stated tolerance, then the Customer will not be entitled to reject such Goods by reason of any surplus or shortfall in the quantity delivered and no adjustment to the Price of such Goods will be made.
- 4.4. The Customer shall inspect the Goods on delivery and within 24 hours give the Company written notice of all damage to the Goods and missing parts (if any) that should be apparent on reasonable inspection (and this notice is in addition to any notice on any carrier's delivery note).
- 4.5. If the Customer fails to accept delivery of any Goods:
  - 4.5.1. such Goods will be deemed to have been delivered at the time at which the Company (or its carrier) attempts to deliver such Goods;
  - 4.5.2. the Company may store such Goods until actual delivery or sale (as the case may be) and the Customer shall pay the Company for all related costs and expenses, including storage; and
  - 4.5.3. following written notice to the Customer, the Company may sell such Goods at the best price reasonably obtainable in the circumstances and charge the Customer for any shortfall below the Price for such Goods.
- 4.6. Without prejudice to the Customer's rights under condition 7, no return of Goods shall be made by the Customer without the Company's prior written approval.
- 4.7. The Company may deliver the Goods under each Contract by instalments and each separate instalment shall be paid for by the Customer in accordance with such Contract and treated as a separate contract.
- 5. OWNERSHIP AND RISK**
- 5.1. The Goods are at the risk of the Customer from the time delivery takes place under condition 4.2 or, if the Customer refuses to take delivery of the Goods, from the time the Company (or its carrier) attempts delivery of the Goods whether or not the Company is to provide any Services in connection with the Goods.
- 5.2. Legal and beneficial ownership of the Goods will not pass to the Customer until the Company has received in full in cash or cleared funds:
  - 5.2.1. the Price for the Goods and (if applicable) associated delivery charges; and
  - 5.2.2. all other sums which are due to the Company from the Customer on any account whatsoever (whenever those sums are payable).
- 5.3. Until legal and beneficial ownership of the Goods passes to the Customer, the Customer shall:

- 5.3.1. hold the Goods on a fiduciary basis as the bailee of the Company;
- 5.3.2. maintain the Goods in a satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company;
- 5.3.3. not destroy, deface or obscure any identifying mark of the Company on the Goods or on any ticketing, labelling or packaging on the Goods or in which the Goods are supplied; and
- 5.3.4. not grant or purport to grant any charge over or other interest in the Goods to any person.
- 5.4. The Customer's right to possession of the Goods will terminate immediately upon the happening of any of the events specified in conditions 9.1.3 to 9.1.9 inclusive.
- 5.5. The Company may recover payment for the Goods even if legal and beneficial ownership of the Goods has not passed from the Company.
- 5.6. The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be used or stored in order to inspect them or, where the Customer's right to possession has terminated under condition 5.4, to recover them.
- 5.7. The Customer may resell the Goods before legal and beneficial ownership of them has passed to it solely on condition that:
  - 5.7.1. any sale is effected in the ordinary course of the Customer's business and at full market value;
  - 5.7.2. the Customer deals as principal when making such a sale;
  - 5.7.3. the Customer assigns to the Company all of the Customer's right, title, interest and benefit to the proceeds or each sale of any Goods to the extent of the total amount owed by the Customer to the Company for such Goods.
- 6. **THE SERVICES**
  - 6.1. Except as specified in any Contract the installation and commissioning of the Goods is the responsibility of the Customer.
  - 6.2. If the Company is required to provide any Services, the Customer shall (at its expense):
    - 6.2.1. provide the Company with adequate supplies of electricity and other utilities or facilities that the Company may require to provide such Services;
    - 6.2.2. ensure that the Premises are ready for the provision of such Services and are a safe working environment for the Company's personnel;
    - 6.2.3. provide the Company with adequate, safe and unrestricted access to the Premises; and
    - 6.2.4. provide adequate washing and sanitary facilities at the Premises for the Company's personnel.
- 7. **QUALITY**
  - 7.1. Subject to the other provisions of these Conditions, the Company warrants to the Customer that:
    - 7.1.1. the Goods will be reasonably fit for their normal purpose and free from material defects in materials and workmanship for a period of 3 months starting on the date of delivery of the Goods or for the period ending on the date of expiry of the shelf life of the Goods whichever is shorter ("**Warranty Period**"); and
    - 7.1.2. the Services will be provided with reasonable care and skill.
  - 7.2. If any:
    - 7.2.1. Goods do not comply with condition 7.1.1 then, except as provided in condition 7.3, the Company shall at its option repair or replace such Goods free of charge or credit the Customer with a refund for the Price paid for such Goods;
    - 7.2.2. Services fail to comply with condition 7.1.2 then, except as provided in condition 7.4, the Company shall at its option carry out remedial work or re-perform the Services or credit the Customer with a refund for the Price paid for such Services.
  - 7.3. The Company's obligation under condition 7.2.1 will not apply to any Goods that do not comply with condition 7.1.1 if any or all of the following circumstances apply (as to which the decision of the Company will be final and binding):
    - 7.3.1. the non-compliance is as a result of:
      - 7.3.1.1. misuse or neglect of such Goods by the Customer;
      - 7.3.1.2. the Customer's failure to follow the manual or instructions issued by the Company or the manufacturer of such Goods;
      - 7.3.1.3. improper installation, transportation, storage, handling or repair of, or accident to, such Goods in each case by the Customer;
      - 7.3.1.4. damage (malicious or otherwise) to the Goods unless caused by the Company;
      - 7.3.1.5. any cabling, wiring, apparatus, devices, equipment or other materials of whatsoever nature that are used in connection with (but do not form part of) the Goods and that have not been supplied by the Company;
      - 7.3.1.6. the installation of any faulty or incorrect parts, fittings or accessories to the Goods unless supplied by the Company;
      - 7.3.1.7. any upgrade to, or modification, alteration or adaptation of, the Goods unless carried out by or with the prior written consent of the Company;
      - 7.3.1.8. fair wear and tear;
      - 7.3.1.9. abnormal use of the Goods by the Customer (including exposure of the Goods to any temperature outside the range for which the Goods were designed or subjecting the Goods to undue physical pressure or stress or connecting the Goods to the incorrect electrical or water supply); and
      - 7.3.1.10. adherence to any specific requirements or instructions of the Customer.

References in conditions 7.3.1.1 to 7.3.1.10 inclusive to “the Customer” mean the Customer or any of its employees, agents and sub-contractors (other than the Company) or any person to whom the Goods are supplied after their sale by the Company to the Customer; or

- 7.3.2. the Customer fails to notify the Company of any non-compliance within 28 days starting on the date on which the Goods are delivered to the Customer (where the non-compliance should be apparent on reasonable inspection) or within 28 days starting on the date the non-compliance comes to the knowledge of the Customer (where the non-compliance is not one which should be apparent on reasonable inspection) and in any event before the end of the Warranty Period; or
- 7.3.3. the Customer fails to give the Company a reasonable opportunity to examine and test the Goods; or
- 7.3.4. the Customer fails to return or to deliver-up to the Company the Goods where a replacement is to be provided.
- 7.4. The Company’s obligation under condition 7.2.2 will not apply to any Services that do not comply with condition 7.1.2 if the non-compliance:
  - 7.4.1. is not notified by the Customer to the Company within [28] days starting on the date of completion of such Services; and/or
  - 7.4.2. results from the Company complying with the Customer’s requirements or any incomplete or inaccurate information provided by the Customer (as to which the decision of the Company will be final and binding).
- 7.5. If the Company complies with condition 7.2, it will have no further liability to the Customer for breach of condition 7.1.
- 7.6. In the case of [capital equipment that has a Price in excess of £ 1500.00], the Warranty Period under condition 7.1.1 will be 12 months
- 7.7. Where any Goods are subject to a warranty of the manufacturer or supplier of such Goods, then a warranty on identical terms will be substituted for condition 7.1.1 and the liability of the Company to the Customer for breach of that warranty will be no greater than that which that manufacturer or supplier has to the Company.
- 7.8. The Company will reimburse the reasonable costs incurred by the Customer in returning any Goods that fail to comply with condition 7.1 where such Goods are repaired or replaced [or are subject to a refund] by the Company under condition 7.2.1.
- 7.9. Any repaired or replaced Goods will be guaranteed on the terms of this condition 7 for the unexpired portion of the Warranty Period from the date of delivery of the repaired or replacement Goods. Any Goods which have been replaced will belong to the Company.
- 7.10. If the Goods are kept or used outside the United Kingdom, no responsibility is accepted by the Company for ensuring that the Goods are compliant with the laws of any other jurisdiction that may be applicable.
- 7.11. If, in the opinion of the Company or of the relevant manufacturer, any Goods do not comply with condition 7.1.1, then the Company may recall such Goods and the Customer shall provide the Company with all reasonable co-operation and assistance with such recall. Any Goods that are recalled will be subject to repair, replacement or refund in accordance with condition 7.2.1.

## 8. **LIMITATION OF LIABILITY**

- 8.1. Except as set out in condition 7.1, and for the terms implied by section 12 of the Sale of Goods Act 1979 (as amended), all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from each Contract.
- 8.2. Nothing in these Conditions excludes or limits the liability of the Company:
  - for death or personal injury caused by its negligence; or
  - 8.2.1. under section 2(3) Consumer Protection Act 1987; or
  - 8.2.2. for any matter for which it would be illegal for the Company to exclude or attempt to exclude its liability; or
  - 8.2.3. for fraud or fraudulent misrepresentation.
- 8.3. Subject to conditions 8.2 and 8.4, the total liability of the Company in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise, arising in connection with:
  - 8.3.1. the sale of the Goods under each Contract will be limited to the total Price payable for the Goods under such Contract;
  - 8.3.2. the provision of the Services under each Contract will be limited to the total Price payable for the Services under such Contract.
- 8.4. Subject to condition 8.2, the Company will not be liable to the Customer for any loss of profit, loss of savings, loss of production, loss of contracts, depletion of goodwill and like loss in each case whether direct, indirect or consequential or for any indirect or consequential loss or damage whatsoever (howsoever caused including in negligence) which arises out of or in connection with any Contract.
- 8.5. The Customer acknowledges that the above provisions of this condition 8 are reasonable and reflected in the Price which would be higher without those provisions and the Customer shall accept such risk and/or insure accordingly.
- 8.6. If the Company is required to provide any Services at the Premises, the Customer shall indemnify and keep indemnified the Company in full from and against all costs (including the costs of enforcement and legal and other professional fees), expenses, liabilities, losses, damages, claims, demands, fines and judgments that the Company incurs as a result of:
  - 8.6.1. damage to its property or to the property of any of its employees, agents or sub-contractors; and/or
  - 8.6.2. death of or injury to any of the Company’s employees, agents or sub-contractors, in each case where such damage, death or injury is caused by any act or omission of the Customer or any of its employees, agents or sub-contractors (other than the Company).

## 9. **TERMINATION**

- 9.1. The Company may terminate any or all Contracts immediately by giving notice to the Customer if the Customer:

- 9.1.1. [fails to pay the Company any sum payable under any Contract on the due date for payment and remains in default for at least [7 days] starting on the date on which the Company gives the Customer notice requiring payment; or]
- 9.1.2. [provides the Company with any information that is untrue or misleading in any material respect; or]
- 9.1.3. enters into any arrangement with its creditors or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986 (or section 268 of such Act if the Customer is a natural person) or (being a partnership) has any partner to whom any of such events apply;
- 9.1.4. being a body corporate or has any receiver, administrative receiver, administrator or manager appointed over all or any of its undertaking or assets; or
- 9.1.5. being an individual dies or is subject to a bankruptcy petition or order; or
- 9.1.6. being a partnership, dissolves or all of the partners die or are subject to bankruptcy petitions or orders; or
- 9.1.7. suffers or allows any distraint execution or other process to be levied on its property or obtained against it; or
- 9.1.8. ceases to trade or threatens to cease to trade; or
- 9.1.9. encumbers or in any way charges the Goods prior to the passing of ownership under condition 5.2; or
- 9.1.10. is subject to anything that is analogous to any event specified in conditions 9.1.3, 9.1.4, 9.1.5, 9.1.6 or 9.1.7 under the laws of any applicable jurisdiction for those purposes.
- 9.2. On termination of any Contract under condition 9.1:
  - 9.2.1. all amounts payable to the Company under such Contract shall become immediately payable despite any other provision to the contrary; and
  - 9.2.2. all rights and liabilities accrued to either party up to the date of termination will not be prejudiced.
- 9.3. The conditions which expressly or impliedly have effect after termination (including conditions 1, 2.6, 3, 4.1, 4.4, 4.5, 4.6, 5, 7, 8, 9.2, 9.3 and 10) will continue to be enforceable notwithstanding termination.
- 10. MISCELLANEOUS**
  - 10.1. The Customer shall notify the Company immediately if:
    - 10.1.1. there is any change to the person who holds or controls a majority of the voting power of the Customer; or
    - 10.1.2. in the case of a partnership, there is a change in [50%] or more of its partners; or
    - 10.1.3. the Customer disposes of all or substantially all of its business and assets (in each case whether such change or disposal is by one transaction or by a series of transactions).
  - 10.2. Each Contract is personal to the Customer who shall not assign it in whole or in part to any person without the prior written consent of the Company. The Company may assign the Contract or any part of it and/or sub-contract all or any of its obligations under the Contract.
  - 10.3. By entering into any Contract, the Customer consents to the Company sharing with its parent company and the other companies that are from time to time in the same group of companies as the Company all or any of the data provided by and/or relating to the Customer.
  - 10.4. If any provision of any Contract is found by any court or administrative body of competent jurisdiction to be wholly or partly invalid or unenforceable it will to the extent of such invalidity or unenforceability be deemed severable and the remaining provisions of such Contract will continue in full force and effect.
  - 10.5. These Conditions contain the whole agreement between the parties relating to their subject-matter and supersede all prior agreements, arrangements and understandings between the parties relating to that subject-matter. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company in respect of any Goods or Services which is not set out or expressly referred to in the Contract for such Goods or Services. However, nothing in this condition 10.3 will exclude any liability which the Company would otherwise have in respect of any statement it has made fraudulently to the Customer.
  - 10.6. The Company and the Customer do not intend that the provisions of any Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to such Contract.
  - 10.7. The formation, existence, construction, performance, validity and all aspects of each Contract will be governed by English law. The courts of England will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with any Contract and the parties irrevocably agree to submit to that jurisdiction.
  - 10.8. The Company will not be in breach of contract or otherwise liable to the Customer if the Company is prevented from or delayed in performing any of its obligations due to any circumstances outside its reasonable control including act of God, acts of terrorism, war or national emergency, fire, explosion, epidemic, lock-outs, strikes or other labour disputes (whether relating to the workforce of either party or of any third party) or restraints or delays affecting carriers or suppliers in respect of any Contract. However, if such circumstances continue in respect of any Contract for a consecutive period of [2 months] then the Customer may terminate such Contract by giving notice in writing to the Company.
  - 10.9. Any failure or delay by the Company in enforcing any provision of any Contract will not be construed as a waiver of any of its rights under such Contract.
  - 10.10. All notices required under these Conditions, shall be in writing and delivered by hand or pre-paid first class post or fax to each party at its address or fax number specified in the Contract. Each notice will be deemed to have been received, if delivered by hand, on the day of delivery; if sent by pre-paid first-class post, 48 hours after posting and, if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next following working day.