

**GENERAL TERMS AND CONDITIONS OF BUSINESS (Terms and Conditions of Sale and Delivery - last modified 11/2022**

Sunparadise Systems Ltd., 12 Newmarket Business Centre, 341 Exning Road, Newmarket Suffolk CB8 0AT (“Sunparadise”) sells exclusively to specialist trade partners (i.e. a reseller or other business customers) (“Buyer”) in accordance with the following General Terms and Conditions of Business (“General Terms and Conditions of Business”). Sunparadise and the Buyer shall each be referred to as a “Party”, and together, the “Parties”.

**1. General information**

- 1.1 The contract between Sunparadise and the Buyer for the sale and purchase of goods (or any part of them) as set out in the Order Confirmation (as defined in Clause 2.2) (“Goods”) and/or the provision of services by Sunparadise (“Services”) in accordance with these General Terms and Conditions of Business shall be referred to as the Contract (“Contract”).
- 1.2 These General Terms and Conditions of Business apply to the Contract to the exclusion of any other terms which the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. Deviating, conflicting or supplementary terms of the Buyer shall only become part of the Contract if Sunparadise has expressly agreed to their applicability in writing.
- 1.3 Amendments and supplements to the Contract must be made in writing and signed by the Buyer and Sunparadise to be legally binding. Oral side agreements are not binding.
- 1.4 If a Party refrains from asserting a right to which it is entitled, this shall not be deemed to be a waiver of the respective right or any of its other rights. If one Party, e.g. out of goodwill, provides more than it is contractually obliged to do, the other Party cannot derive any claims from this.
- 1.5 If a clause or provision of these General Terms and Conditions of Business proves to be invalid, void or unenforceable, the validity, effectiveness and enforceability of the remaining provisions shall not be affected. Any invalid, void or unenforceable provisions shall be replaced by such valid, effective and enforceable provisions that come closest to the originally intended provision with regard to their content.

**2. Conclusion of contract and scope**

- 2.1 Any offers by Sunparadise are free of charge and subject to change, unless otherwise agreed in writing.
- 2.2 The Buyer’s orders shall be deemed to be binding. Unless otherwise specified in the Buyer’s order, Sunparadise is entitled but not obligated to accept the order within five (5) working days after submission by the Buyer. The acceptance of the order can be made by (a) the written confirmation from Sunparadise that Sunparadise accepts the

order (**Order Confirmation**), (b) the dispatch of the Goods by Sunparadise to the Buyer or (c) the start of production of the Goods by Sunparadise, whichever occurs first. The Buyer must check, sign and return a copy of the Order Confirmation prior to the commencement of production.

- 2.3 Sunparadise prepare technical drawings for the product concerned ("**Construction Overview Drawing**") which will be approved by the buyer.
- 2.4 Sunparadise is authorised to make alterations to the specification of agreed Goods, provided that such alterations are reasonable for the Buyer and do not impact on the overall performance of the Goods.

### **3. Goods and Services**

- 3.1 The information contained in Sunparadise's catalogues, brochures, circulars, advertisements, illustrations, price lists, technical and other documents, etc. of Sunparadise about weights, mass, capacity, price, performance, specification and the like (as well as all information contained on Sunparadise's website) is only incorporated in the Contract if and to the extent that Sunparadise expressly stipulates this and refers to this information in writing (e.g. in the Order Confirmation).
- 3.2 Quotations, plans, sketches, calculations, samples, illustrations as well as technical and other contractual and delivery documents always remain the property of Sunparadise, and may only be used by the Buyer in relation to this Contract. Any other use, reproduction or publication of the above-referenced documents by the Buyer requires the express prior written consent of Sunparadise.
- 3.3 The intellectual property rights associated in and in relation to the Goods and/or Services of Sunparadise (including, without limitation, intellectual property rights, business secrets, know-how, etc.) are exclusively the property of Sunparadise. The Buyer is prohibited from copying (or otherwise infringing) any features of the Services of Sunparadise, using them for itself or others or allowing them to be used or making them accessible to others without the express prior written consent of Sunparadise. The Buyer is further prohibited from copying, reproducing or otherwise infringing the Goods of Sunparadise or allowing any third party to do so.
- 3.4 Without prejudice to the other rights and remedies of Sunparadise (including all claims for injunctive relief or in equity), any infringement of Clause 3.2 or 3.3 represent a material breach. Payment of the contractual penalty does not release the Buyer from compliance with the General Terms and Conditions of Business.
- 3.5 The Goods are construction products with CE labelling according to the Construction Products Regulation (EU) No. 305/2011 and may only be used by the Buyer if the declared performance according to the Construction Products Regulation complies with all requirements under applicable UK legislation for their intended use. Since Sunparadise does not carry out any installation for the Buyer and does not know and/or check the conditions of the end customer on site, it is the sole responsibility of

the Buyer to determine which requirements the Goods must meet at the site of installation for their specific use and which declared performance they must fulfil. The Buyer shall observe and adhere to all applicable UK legislation and building regulations which apply on site. Templating of Goods, which Sunparadise carries out on the basis of information received from the Buyer, is for guidance only and is non-binding. This applies in particular (but without limitation) to determining whether the Goods meet the requirements for the intended use of the Buyer or its end customers at the installation location. The non-binding templating does not replace the responsibility and activity of the construction supervisor in accordance with relevant regulations at any stage of order processing, from the measurement to the acceptance of the order by Sunparadise via the Order Confirmation. The Buyer placing the order is responsible for the accuracy of the dimensions taken by the Buyer for the purpose of templating. The non-binding templating does not involve any express or implied warranty (in particular but without limitation with regard to the suitability of the Goods for a specific purpose) and/or liability of Sunparadise.

#### **4. Prices**

- 4.1 The price of the Goods shall be the price set out in Sunparadise's quotation and confirmed within the order confirmation. If no price is stated then the price set out in Sunparadise's price list in force as at the date of delivery (as displayed on Sunparadise's website) will be used.
- 4.2 Unless otherwise agreed, all prices apply net of taxes and are exclusive of VAT.
- 4.3 Should there be a delay to the overall construction program resulting in a delay in producing the order then the agreed contract sum will be subject to change. Increases in costs will be calculated and applied to the agreed contract sum. The Buyer will be notified of the cost increase prior to delivery and invoicing of the Goods.
- 4.4 The invoice amount may contain minor rounding differences due to electronic system-related reasons.

#### **5. Terms of payment**

- 5.1 Payments must be made in full and in cleared funds in pounds sterling to the bank account nominated in writing by Sunparadise, without any deductions such as, without limitation, cash discount, expenses, taxes and fees, and without any set-off, counterclaim, deduction or withholding. Unless different payment dates have been agreed by Sunparadise in its written Order Confirmation, the full price shall be paid nett monthly.
- 5.2 The payment deadlines must be complied with even if a proportionately minor part of the service is missing or if minor rectifications prove necessary, which do not make the use of the Goods impossible.

- 5.3 If the Buyer fails to make a payment due to Sunparadise by the due date, then Sunparadise is authorised without prejudice to its legal rights to:
- (a) postpone the fulfilment of its obligations until payment of the arrears or performance of the other Services have been rendered;
  - (b) terminate the Contract in accordance with Clause 10.1(g) and to demand damages; and
  - (c) in any event, to only provide future deliveries and Services if the Buyer pays in advance.
- 5.4 The Buyer shall pay interest on all outstanding sums from the due date until payment of the overdue sum, whether before or after judgment. Interest will accrue each day at 4% a year above the Bank of England's base rate at the invoice date.

## **6. Title and risk**

- 6.1 The responsibility of the Goods shall pass to the Buyer on completion of delivery and prior to unloading.
- 6.2 Sunparadise retains ownership of and title to all Goods until Sunparadise receives full payment for the Goods.
- 6.3 The Buyer shall cooperate with measures which are required to protect the property of Sunparadise until title to the Goods has passed to the Buyer.
- 6.4 The Buyer may further process and sell the delivered Goods subject to retention of title in the ordinary course of business as long as the retention of title of Sunparadise to the Goods in accordance with these General Terms and Conditions of Business is maintained and, respectively, the rights of Sunparadise in accordance with these General Terms and Conditions of Business remain secured. The Buyer is only authorised to further process and resell any such Goods until further notice. Other transfers, assignment by way of security, pledge or similar measures by the Buyer are not permitted. In particular but without limitations, Goods subject to retention of title may not be pledged to third parties or assigned as collateral before full payment of all sums in accordance with Clause 6.2.
- 6.5 In the event the retention of title cannot be legally maintained in the event of a resale of the delivered Goods subject to such retention of title, the Buyer hereby assigns all claims (with all ancillary rights, securities and retentions of title) against third parties that arise out of any such resale to Sunparadise until all sums in accordance with Clause 6.2 have been paid in full. Sunparadise hereby accepts this assignment. If Sunparadise is merely the co-owner of the sold Goods, the assignment of the claim shall only take effect up to the amount that corresponds to the value of the share of the Goods owned of Sunparadise.
- 6.6 Sunparadise authorises the Buyer to collect the claim assigned to Sunparadise for the account of Sunparadise in its own name until further notice. A revocation of this

authorisation is only permissible if the Buyer has not duly fulfilled its obligations under the General Terms and Conditions of Business, in particular but without limitation its payment obligations, becomes insolvent or bankrupt, has filed an application for the opening of insolvency or bankruptcy proceedings or such an application is dismissed due to lack of assets. In the event of revocation of the authorisation to collect the claims of Sunparadise, the Buyer must inform the debtor of the assignment of the claim to Sunparadise.

- 6.7 The Buyer's right to dispose of any Goods subject to retention of title, to process them or to collect the assigned claims shall also expire automatically if insolvency or bankruptcy proceedings are opened over the Buyer's assets or if an application to open such proceedings is rejected due to lack of assets, in the event of suspension of payments by the Buyer, in the event the Buyer makes an application for the opening of insolvency or bankruptcy proceedings or in the event of the insolvency or over-indebtedness of the Buyer. In such cases, and in any of the cases listed in Clause 6.7, Sunparadise is entitled to terminate the Contract with the consequence that Sunparadise may accept the Goods subject to retention of title again. The Buyer is obliged to hand over such Goods. The proceeds of any liquidation of such Goods shall be credited to the Buyer, less the costs of liquidation.
- 6.8 In the event of revocation of the authorisation to collect the assigned claims, the Buyer must disclose to Sunparadise in writing, details of the third parties claims which exist and their value. In addition, Sunparadise may demand that the Buyer provide any other information required for collection and hand over any associated documents.

## **7. Delivery**

- 7.1 The delivery dates specified by Sunparadise are provided as a guide and subject to change. Claims by the Buyer for damages due to delay in the Goods or Services in transit are excluded. Sunparadise shall not be liable for any delay in delivery of the Goods caused by a Force Majeure Event or the Buyer's failure to provide Sunparadise with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods, or if the Buyer has not complied with its payment obligations.
- 7.2 Sunparadise shall deliver the Goods to the location set out in the order confirmation.
- 7.3 Delivery is completed when the Goods arrive at the Delivery Location. The Buyer is responsible for the unloading and handling of the Goods at the delivery location.

## **8. Warranty**

- 8.1 Sunparadise warrants that on delivery and for a period of five (5) years from the date of delivery (**Warranty Period**), that the Goods shall comply with the following provisions. The Buyer shall have no further warranty claims and rights in relation to defects except those expressly mentioned in this Clause 8, and any implied terms under the Sale of Goods Act 1979 which cannot be contracted out of by operation of

law (including Section 12). The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

- 8.2 Sunparadise warrants that the delivered Goods do not have any material defects already existing at the time of the transfer of title due to poor material, defective construction or defective design and that the delivered Goods conform with their description, and the agreed specification, that the agreed assembly is carried out properly, that assembly instructions are free of defects and that no goods other than those ordered are delivered.
- 8.3 The warranty is valid until the expiry of the Warranty Period at the latest.
- 8.4 Variation in the Goods delivered by Sunparadise in terms of their dimensions, equipment and material as well as minor colour deviations or the like due to commercial and/or technical manufacturing conditions remain reserved and are not considered defects, provided the variations are reasonable for the Buyer, also taking into account the interests of Sunparadise.
- 8.5 The Buyer must inspect the Goods and Services immediately upon receipt. If there is a defect on receipt or inspection or at any later point in time, Sunparadise must be notified of this immediately in writing (and always within the Warranty Period). In any case, obvious defects in connection with the delivery of glass components must be communicated to Sunparadise in writing and reported in detail (with an image if possible) within twenty-four (24) hours after delivery and other obvious defects within three (3) days after acceptance.
- 8.6 Subject to Clause 8.10, if:
- (a) the Buyer gives notice in writing to Sunparadise during the Warranty Period and in accordance with Clause 8.5 that some or all of the Goods do not comply with the warranty set out in Clause 8.2;
  - (b) Sunparadise is given a reasonable opportunity of examining such Goods; and
  - (c) the Buyer (if asked to do so by Sunparadise) returns such Goods to Sunparadise's place of business at Sunparadise's cost,
- Sunparadise shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 8.7 The Buyer must grant Sunparadise the time and opportunity required for inspecting, repairing or replacing (as applicable) any rejected goods. Where this happens, Sunparadise shall not be installed to remove the defective item or reinstall it if Sunparadise was not originally obligated to install it. Replaced parts become the property of Sunparadise, unless Sunparadise expressly waives this right.
- 8.8 The expenses required for the purpose of inspection and supplementary performance, in particular transport, travel, labour and materials costs as well as, if applicable, removal and installation costs shall be borne or reimbursed by Sunparadise if there is

actually a defect. Otherwise, Sunparadise may demand reimbursement from the Buyer for the costs incurred.

8.9 Sunparadise is entitled to make any steps required under Clause 8.8 conditional on the Buyer paying the purchase price due.

8.10 Sunparadise shall not be liable for the Goods' failure to comply with the warranty set out in Clause 8.2 if:

- (a) the Buyer does not comply with its obligations under Clause 8.6 in a timely manner;
- (b) the Buyer makes any further use of such Goods after giving notice in accordance with Clause 8.6;
- (c) the delivered Goods have been altered, treated or processed by the Buyer, its customer or third parties without the written consent of Sunparadise;
- (d) the defect arises because the Buyer failed to follow Sunparadise's oral or written instructions supplied with the Goods, defective storage or maintenance, excessive use, unsuitable building sites and for other reasons for which Sunparadise is not responsible;
- (e) the defect arises as a result of Sunparadise following any drawing, design or specification supplied by the Buyer;
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (g) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

8.11 Except as provided in this Clause 8, Sunparadise shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in Clause 8.2.

## **9. Limitation of liability**

9.1 Sunparadise shall only be liable to the Buyer for damages in accordance with the following provisions.

9.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987.

9.3 Subject to Clause 9.2, Sunparadise's total liability to the Buyer shall not exceed [the total amount of the payments received by Sunparadise from the Buyer in respect of the specific Goods and/or Services provided under the relevant Order Confirmation.

9.4 Subject to Clause 9.2, the following types of loss are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

9.5 This Clause 9 shall survive termination of the Contract.

9.6 The limitations of liability provisions in this Clause 9 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, and including in case of breaches of duty by legal representatives or vicarious agents of Sunparadise.

## **10. Termination**

10.1 Without limiting its other rights or remedies, Sunparadise may terminate the Contract with immediate effect by giving written notice (or by notice by email or fax) to the Buyer if:

- (a) the Buyer commits a material breach of any term of these General Terms and Conditions of Business and (if such a breach is remediable) fails to remedy that breach within (7) seven working days of the Buyer being notified in writing to do so;
- (b) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- (d) Sunparadise, due to impairments by the Buyer or third parties or due to a Force Majeure Event (pursuant to Clause 11.2 below) and other circumstances for which Sunparadise is not responsible, is permanently prevented from delivering the Goods or providing the Services or is prevented from doing so for a period of two (2) months or more;
- (e) unforeseen events for which Sunparadise is not responsible significantly change the economic significance or the content of any delivery of Goods or



provision of Services by Sunparadise and thus make it unreasonably difficult for Sunparadise;

- (f) circumstances arise to reasonably justify the opinion on the part of Sunparadise that the Buyer is unable to install the product professionally;
- (g) the Buyer fails to pay any amount due under the Contract on the due date for payment, or there are reasons that make the Buyer's solvency uncertain in Sunparadise's reasonable opinion. In this case, Sunparadise may also adjust the agreed payment conditions for the time being, and may in particular demand advance payment.

10.2 In the event of termination of the Contract, Sunparadise is entitled to remuneration for the Goods and Services already provided, and the Buyer shall immediately pay to Sunparadise all of the Buyer's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Sunparadise shall submit an invoice, which shall be payable by the Buyer immediately on receipt.

10.3 Claims for damages by the Buyer due to termination of the Contract are excluded. The foregoing does not apply if Sunparadise is liable under Clause 9. However, termination of the Contract shall not affect any of the Parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

## **11. Force Majeure**

11.1 An event, circumstance or cause beyond a party's reasonable control shall be deemed to be a Force Majeure Event, including natural events, war, epidemics, pandemics, terrorist acts, political unrest, sabotage, fire, explosion, significant operational disruptions, accidents, strikes, delayed or faulty supply by upstream suppliers, lack of raw materials or energy, official measures or omissions, embargos, unforeseeable transport disruptions and similar transport events (**Force Majeure Event**).

11.2 Neither party shall be in breach of these General Terms and Conditions of Business or the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for (2) two months or more, Sunparadise may terminate the Contract by giving written notice to the Buyer.

## **12. Data protection**

12.1 The Parties undertake to comply with all applicable data protection legislation and provisions. Unless otherwise agreed, personal data obtained in connection with the performance of the Contract may only be processed in order for the Parties to perform their obligations under the Contract and to the extent necessary for this.

12.2 If required in order for Sunparadise to perform its obligations under the Contract, Sunparadise may transfer personal data to third parties and to companies affiliated

with Sunparadise both within the UK and abroad, provided that such transfers are made in accordance with the requirements of the UK GDPR.

12.3 Further information on Sunparadise's data protection policies and data protection notice can be found on Sunparadise's website [www.sunparadise.com](http://www.sunparadise.com).

**13. Place of jurisdiction, governing law**

13.1 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

13.2 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of England.