

TERMS AND CONDITIONS OF SALE

These Conditions, together with the Order Confirmation Form signed by an authorised representative of the Company, constitute the entire agreement ("the Agreement") between the Company and the Customer and supersede and extinguish all previous drafts, agreements, arrangements and understandings between them, whether written or oral, about the purchase of the Products and related services. If, after this Agreement comes into effect: (i) the Customer opts to buy the Products through a leasing company, finance house or other third party provider of finance ('the Provider') so that the Company sells the Products to the Provider who then sells, leases or otherwise makes the Products available to the Customer, and (ii) the Company and the Provider enter into a written agreement under which the Provider agrees to buy the Products from the Company, then this Agreement shall immediately terminate and cease to be of any effect whatsoever. However, the Customer agrees that notwithstanding the foregoing it shall have no rights and shall make no claim against the Company for: (i) any statements made in the Agreement; or (ii) any oral or written statements made by the Company, its servants or agents; or (iii) any descriptions, illustrations or statements contained in any brochures and/or publicity material produced by the Company, before the date when this Agreement came into effect or was terminated. Nothing in this provision shall limit or exclude the liability of the Company for fraud or anything else, liability for which may not be excluded under English law.

1. Interpretation

In these Conditions:

"Agreement" means the agreement for the purchase and sale of the Products between the Company and the Customer.

"Company" means Jolly Roger (Amusement Rides) Ltd or its permitted assignee.

"Conditions" means the Company's standard terms and conditions of sale set out in this document.

"Customer" means the individual, firm, company, partnership or other entity of any kind placing an order with the Company for Products and which is named as being the Customer on the Order Confirmation Form.

"Products" means goods including hardware, software (whether sold, leased or rented) and services provided by the Company in connection with such goods as more particularly described on the Order Confirmation Form.

"Order Confirmation Form" means the Company's Order Confirmation Form overleaf.

2. General

2.1 No variation to these Conditions shall be binding unless agreed in writing between the Company and the Customer and signed on their behalf.

2.2 The Customer agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in the Agreement. The Customer shall not have any claim for innocent or negligent misrepresentation based upon:

2.2.1 any statement made in the Agreement; or

2.2.2 any oral or written statements made by the Company, its servants or agents; or

2.2.3 any descriptions, illustrations or statements contained in any brochures and/or publicity material produced by the Company,

all of which are only intended to convey a general idea of the Products and services mentioned therein.

2.3 Any advice or recommendations given by the Company or its sales staff to the Customer as to the storage application or use of the Products which are not confirmed in writing by the Company are followed or acted upon entirely at the Customer's own risk.

3. Prices

The Company sells the Products to the Customer on the terms of this Agreement. The price payable for the Products shall be the price specified on the Order Confirmation Form. The Company reserves the right at any time (whether before or after acceptance of the Order Confirmation Form) to pass on to the Customer any increased cost to the Company including without limitation increased costs resulting from any increase in prices charged to the Company by its suppliers, fluctuations in currency rates of exchange or from any increase in VAT or other similar tax levied from time to time.

4. Quotation

No quotations given by the Company for the supply of the Products shall constitute an offer, and the Company reserves the right to withdraw and amend any such quotation until such time as the Company has accepted the order of the Customer in writing. Quotations are valid for 30 days from the date they are given by the Company.

5. Orders

5.1 The Customer must inform the Company in writing about any special requirement of the Customer before the Company accepts the order.

5.2 Any order which has been accepted by the Company may only be cancelled by the Customer with the written agreement of the Company and on terms that the Customer shall indemnify the Company in full against all losses, damages, charges, costs and expenses incurred as a result of the cancellation.

5.3 If the Customer cancels its order with the Company, the Company shall be entitled to retain the deposit, details of which are set out in the Order Confirmation Form.

6. Payment

6.1 All prices are exclusive of Value Added Tax which will be added at the time of invoicing.

6.2 The Customer shall pay the price stated on the Order Confirmation Form (net of deposit, if applicable) by any of the following means:

6.2.1 By way of a banker's draft or bank transfer to be received by the Company five working days before despatch of Products;

6.2.2 Payment organised through one of the Company's recommended Providers. In this case, the Company will not deliver the Products to the Customer until it has received written confirmation from the Provider that the full amount for the Products has been approved by the Provider and that any necessary paperwork has been signed by the

Customer. If payment is made through a Provider, then the first paragraph of these Conditions (with the exception of the first sentence) shall apply.

- 6.3 Time of payment is of the essence of the Agreement. If the Customer fails to pay on the due date, the Company shall be entitled to charge the customer interest on the unpaid amount at the current base rate of Lloyds TSB Bank Plc for the time being plus 8% until payment in full has been made.

7. Non-Payment

If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel this Agreement or suspend any further deliveries to the Customer. If the Company cancels or terminates this Agreement in this way, the Customer shall pay to the Company all costs and expenses owing to the Company at that date. The cost to the Company of any demand or legal action for recovery of monies due shall also be paid in full by the Customer. This provision is without prejudice to the Company's other rights and remedies at law.

8. Installation

- 8.1 The Customer shall be responsible for the choice and adequacy of the site for the installation of the Products and for installing the Products.

9 Delivery

- 9.1 Unless otherwise stated by the Company in writing, the prices quoted are ex-works Skegness, exclusive of carriage.
- 9.2 All delivery dates are estimates only and the Company shall not be liable for any loss or expense suffered by the Customer howsoever arising whether directly or indirectly out of any failure to meet any estimated delivery date. Times of delivery are not of the essence of the Agreement.
- 9.3 The Customer must sign all job sheets and/or delivery notes following delivery of the Products whereupon or failing which the Customer will be deemed to have accepted such delivery subject to Condition 9.6.
- 9.4 The Company will endeavour to comply with special delivery instructions from the Customer and these will be charged at cost.
- 9.5 The Company reserves the right to levy a "small order charge" as may be necessary.
- 9.6 The Customer shall, within three days after delivery, notify the Company in writing of any defect, omission or damage relating to the Products failing which the Customer shall be deemed to have received and accepted all the Products specified in the delivery note.

10. Property and Risk

- 10.1 Notwithstanding delivery of any Products, title to such Products shall pass to the Customer only upon payment in full of all sums owing to the Company by the Customer together with the interest (if any) due to the Company by the Customer of whatever nature.
- 10.2 Until such time as the title to the Products passes to the Customer, the Customer shall hold the Products as the Company's fiduciary agent and bailee, and shall keep the Products separate from those of the Customer and ensure that the Products are properly stored, protected and insured and identified as the Company's property.
- 10.3 The Customer gives to the Company an irrevocable licence and a right to enter into any of the Customer's premises – and shall ensure that the Company is given a right to enter into the premises of any third party – where, in either case, the Products are stored, to repossess those Products which have not yet been paid for in full.
- 10.4 The risk in the Products shall pass to the Customer upon delivery and, subject to Condition 11, the Company shall have no liability in respect of the Products thereafter. The Customer shall be liable for any theft, loss, damage or destruction howsoever caused of, or to, the Products so delivered.

11. Liability

- 11.1 The Company shall not be liable for any personal injury or death, howsoever caused arising from the supply of the Products, except where and to the extent that such injury or death results from the negligence of the Company or its servants or agents.
- 11.2 The Company warrants that the Products will be free from material defects for a period of twelve months from the date of delivery. Where a material defect occurs the Company's sole liability under this warranty shall be to effect a repair or, at the Company's sole option, provide a replacement, in each case, free of charge.
- 11.3 The Company's warranty in Condition 11.2 is subject to the following conditions:
- 11.3.1 The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's or manufacturer's instructions, misuse or alteration or repair of the Products without the Company's approval;
- 11.3.2 The Company shall be under no liability under the above warranty if the total price for the Products has not been paid by the due date for payment (or, where the price is payable by instalments, if any instalment is due but unpaid).
- 11.4 Subject as expressly provided in these Conditions, and except where the Products are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions, representations or other terms implied by statute or common law are excluded to the fullest extent permitted by law. Where, in relation to this Agreement, the Customer does deal as a consumer, nothing in this Agreement will affect the Customer's statutory rights.
- 11.5 Subject to Condition 11.1, the Company shall not be liable to the Customer for indirect or consequential loss including without limitation loss of profits or contracts howsoever caused including, without limiting the generality, the Company's negligence.
- 11.6 Save for liability under Condition 11.1, but otherwise notwithstanding any other provision of this Agreement, the Company's maximum aggregate liability to the Customer arising in connection with this Agreement is limited to the price paid for the Products at the date of claim.

12. Returns

Products returned by the Customer for repair must be accompanied by a note indicating the nature of the defect, showing clearly the Customer's full name and address and giving proof of purchase from the Company. The

Customer will incur repair charges for Products returned outside the warranty period or where excluded from the warranty in Condition 11 above.

13. Miscellaneous

- 13.1 The Company's failure to insist upon a strict performance of any provision of these Conditions shall not be deemed to be a waiver of its rights and remedies or any subsequent default by the Customer in the performance or compliance with any of the terms of these Conditions.
- 13.2 The Customer may not assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this Agreement unless the Company gives its prior written consent and the assignee agrees in writing with the Customer to be bound by these terms and conditions. The Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including all reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any failure by the Customer to obtain such prior written consent from the Company and/or such agreement by the assignee. The Company shall be entitled, without the consent of the Customer, to assign the benefit of all or any of the Customer's obligations under this Agreement and/or any benefit arising under or out of this Agreement to any successor in title or any related company. For the purposes of this Condition 13.2 a "related company" is a company which is a subsidiary company of the Company, a holding company of the Company, or another subsidiary company of such holding company. 'Holding company' and 'subsidiary company' shall be as defined in section 1159 of the Companies Act 2006.
- 13.3 The invalidity of any individual provision of these Conditions shall not affect the validity of the remaining provisions.
- 13.4 The Company shall not be liable for any delays or failures in performance or breach of contract due to events or circumstances beyond its reasonable control, including without limitation acts of God, war, acts by government and regulators, acts of terrorism, accident, fire, flood or storm or civil disturbance. If the Agreement is delayed, interrupted or otherwise for any such reason, the Company shall be at liberty to defer the date of any contract or to cancel the Agreement without liability.
- 13.5 The Customer confirms, acknowledges, warrants and represents that: (a) it is entering this Agreement wholly or predominantly for the purposes of a business carried on by the Customer or intended to be carried on by the Customer; (b) it understands that it will not have the benefit of the protection and remedies that would be available to it under the Consumer Credit Act 1974 if this Agreement were a regulated agreement under that Act; and (c) if it is in any doubt as to the consequences of this Agreement's not being regulated by the Consumer Credit Act 1974, it is aware that it should seek independent legal advice.
- 13.6 This Agreement constitutes the entire agreement between the parties and shall supersede all prior agreements whether written or oral relating to the subject matter hereof. No variation or alteration or waiver of the terms of this Agreement shall be binding unless agreed in writing and signed by duly authorised representatives of the parties.
- 13.7 Nothing in this Agreement shall confer any benefit on a third party whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise except where such rights are granted under Condition 13.2.
- 13.8 Conditions 4, 7, 10, 11, 13 and all other Conditions of this Agreement which by implication or reasonable inference are intended to survive expiry or termination of this Agreement, shall so survive.
- 13.9 The terms herein set out are subject to any special terms agreed between the parties in writing and signed by or on their behalf.
- 13.10 This Agreement shall be governed by and construed in accordance with the laws of England, and the parties submit to the exclusive jurisdiction of the English courts in connection with any dispute.