

PROWISE GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Article 1 Definitions

Prowise	: Prowise UK Limited and its directly and indirectly affiliated enterprises;
Other Party	: the co-contracting party of Prowise;
Agreement	: any agreement between Prowise and the Other Party.

Article 2 Scope of applicability

- The provisions of these general conditions apply to every quote and agreement between Prowise and the Other Party to which Prowise has declared these conditions applicable, insofar the parties have not explicitly derogated from these terms in writing;
- The current conditions also apply to all agreements with Prowise, for which Prowise engages the services of third parties;
- The applicability of the Other Party's general terms and conditions is explicitly excluded, unless the parties agreed otherwise in writing. If the general conditions of both parties apply side by side, the provisions in the general conditions of Prowise will take precedence in the event of a conflict between those conditions and those of the Other Party;
- In the event one or more provisions in these general terms and conditions are void or voided, the remaining provisions of these general terms and conditions remain applicable. The parties will agree on new provisions to replace any provisions that are invalid or declared void, with provisions that are as close as possible to the object and purport of the original provisions;
- If Prowise enters into agreements on more than one occasion with the Other Party, the current terms and conditions will still apply to all subsequent agreements, regardless of whether they are explicitly declared applicable.

Article 3 Offers/Quotes/Compliance/Prices

- All offers and quotes, made in any form, are always non-binding, except if agreed otherwise in writing;
- Any offer or quote is valid for a maximum period of 30 days. Prowise is only bound by an offer or quote, provided the Other Party has confirmed its order in writing within 30 days and on condition that the goods contained in the offer or quote are still in stock or available, unless Prowise has revoked the quote within five working days from receipt of the confirmation;
- The Other Party must draw Prowise's attention to any actual or alleged inaccuracies in the order confirmation within eight days from the order confirmation, failing which it forsakes all rights.
- Oral promises or agreements made by or with its staff cannot be binding for Prowise until after and only insofar they have been confirmed in writing;
- If the acceptance derogates from the offer set out in the quote, Prowise will not be bound by it. In that case, the agreement will not be based on the derogating acceptance, unless Prowise indicates otherwise.
- All specifications of numbers, dimensions, weights and/or other indication in relation to its products are informative and only give a general description;
- A composite price indication does not oblige Prowise to deliver the items included in the quote at a corresponding proportion of the price quoted;

- Offers or quotes are not valid for repeat orders;
- Unless explicitly stated otherwise in writing, the prices in the offers / quotations are in Pound Sterling, including loading costs and insurance costs, but excluding VAT, government levies and transportation costs. The costs related to transportation from the Prowise distribution center in Birmingham to the agreed delivery location will be charged separately;
- Prowise is entitled to request the surety from the Other Party that will be adequate in its opinion to meet its payment obligations, also if it results that deadlines and/or delivery terms are exceeded as a result.

Article 4 Delivery and term of delivery

- Unless explicitly agreed otherwise in writing, the Products sold by Prowise to the Other Party will be delivered at place (DAP - Incoterms 2010) from the Prowise distribution center in Birmingham;
- The risk of loss or damage to the products that form the object of the Agreement will transfer to the Other Party at the time these products are legally or factually delivered to the Other Party and therefore in the Other Party's possession or in the possession of third parties designated by the Other Party;
- The Other Party is obliged to buy the goods at the time when Prowise delivers them, arranges for them to be delivered, or when the goods are actually made available pursuant to the Agreement;
- If the Other Party refuses to take delivery of them or omits to provide the information or instructions that are necessary for the delivery, Prowise is entitled to store the goods at the Other Party's expense and risk.
- Any delivery date stated by Prowise is only for indicative purposes. A time for delivery can therefore always be extended. Except for intent or gross negligence from Prowise, the Other Party cannot lay claim to damages and/or a cancellation of the Agreement if the delivery term is exceeded by up to 30 days. If the delivery term is exceeded by more than 30 days, the Other Party must immediately send Prowise a notice of default in writing, indicating a reasonable term to comply with its obligations, without becoming liable for any damages;
- If Prowise requires information from the Other Party in the context of fulfilling the Agreement, the term of delivery commences from when the Other Party has made the information required available to Prowise;
- Prowise is entitled to deliver the goods in instalments. Prowise is entitled to invoice part-deliveries separately;
- If it is agreed that the goods will be installed on site, wiring work will be carried out at the Other Party's expense and risk.

Article 5 Examination, complaints

- The Other Party is under an explicit obligation to examine the goods immediately on delivery, and if this is not possible, at the first available opportunity after delivery, to examine whether the goods delivered are in conformity with the Agreement. The Other Party must in any case examine whether the quality and quantity of the goods delivered correspond to what was agreed;
- Complaints relating to visible faults, including in terms of quantity and quality, must be reported to Prowise within five days from

delivery in writing, failing which the Other Party forfeits any claim against Prowise based on the goods supplied not being in conformity with the Agreement;

3. Complaints in relation to non-visible faults must be reported to Prowise in writing within five days from being detected;
4. If the Other Party submits a complaint, the Other Party is obliged to give Prowise an opportunity to inspect (or arrange inspection of) the goods in order to establish the alleged defects;
5. If the Other Party wishes to return faulty goods, it can only be done with the prior written agreement of Prowise in the manner indicated by Prowise;
6. The Other Party can under no circumstances enforce any claims against Prowise after the Other Party took (part of) the goods delivered in use, or modified or processed them. Only goods in an undamaged condition, still in the original packaging, are eligible for credit;
7. If Prowise find that the Other Party's objections are founded, it has the right to either repair or replace the goods free of charge, or to credit them, at Prowise's discretion;
8. Credits are only given by means of a credit note. The value of the returned goods will only be settled after the Other Party receives a credit note, and only for the value of the credit note;
9. If a complaint arises about a part delivery, it does not constitute a cause for rejecting the entire delivery.

Article 6 Payment

1. Payment must be made in Pound Sterling within thirty days from the invoice date (free from any right of set off, counterclaim, withholding or deduction of any kind, those rights being expressly excluded). Complaints against the amount invoiced do not suspend the obligation to pay;
2. If it is agreed that the Other Party will pay in monthly instalments, these payments will be made in advance and by direct debit collection;
3. The Other Party cannot demand an offset of payments to Prowise;
4. Prowise shall be entitled to charge the Other Party interested (both before and after any judgement) on the amount unpaid, at the rate of 4% per annum above ING Bank base rate from time to time, until full payment is made (a part of a month being treated as a full month for the purpose of calculating interest);
5. Payments will first serve to reduce the costs, then the outstanding interest and lastly to reduce the principal sum and the accruing interest;
6. In the event of liquidation, (an application for) bankruptcy, permission for restructuring of liabilities under the Natural Persons Debt Rescheduling Act, seizure or a suspension of the Other Party's payments, Prowise's claims against the Other Party will be immediately due and payable.

Article 7 Installation

1. Prowise makes every effort to provide its services with care pursuant to the arrangements and procedures agreed on in writing with the Other Party;
2. The work times of Prowise's employees will be adapted as much as possible to the work times in force at the Other Party, insofar these are between 8:30 and 17:30, excluding Saturdays, Sundays and public holidays. On Fridays the work day ends at 17:00;
3. For orders to perform work and/or provide services at a fixed price, the location where and work hours during which the work is performed will always be at Prowise's discretion;
4. If an acceptance test is agreed, the trial period will be fourteen (14) days from delivery or after the installation is completed;
5. The installation is considered to have been accepted if:
 - no acceptance test was agreed between the parties: upon delivery, or if there was no arrangement for Prowise to perform the installation, upon completion of the installation;

- the parties agreed that there would be an acceptance test: on the first day after the trial period;
- Prowise receives a test report before the end of the trial period as referred to in clause 6: at the time when the faults set out in the test report are repaired, notwithstanding the presence of inadequacies that do not impede acceptance pursuant to clause 7. In derogation of the above, it is considered as fully accepted if and as soon as the Other Party makes any use of it for operational purposes before the moment of acceptance;

6. If it appears when the acceptance test is carried out that errors are hindering the progress of the acceptance test, the Other Party will inform Prowise at the latest on the last day of the trial period, by means of a detailed description of the errors. After that, the trial period will be interrupted until the installation has been adjusted in order for the hindrance concerned to be removed. Prowise will do its utmost to remedy the reported fault within a reasonable term, as part of which Prowise is entitled to use temporary solutions, program workarounds and/or problem-avoiding restrictions;
7. Acceptance will not be withheld on grounds other than anything relating to the explicitly agreed specifications, nor based on the presence of minor errors, which errors do not reasonably prevent operational use of the goods supplied, notwithstanding Prowise's obligation to remedy those small errors in the context of the warranty arrangement under Article 9.
8. If the delivery and testing occurs in stages and/or parts, the acceptance of one particular phase and/or part does not prejudice the acceptance of a previous phase and/or part;
9. Prowise will make every effort to remedy errors within a reasonable term provided they were reported to Prowise in detail in writing, within a period of three months from delivery or, in the event an acceptance test was agreed on, within three months from the acceptance. Prowise does not vouch that the software is suitable for the actual and/or intended use. Neither does Prowise guarantee that the software will work without interruption and/or that all errors will always be corrected. Repairs are carried out free of charge, unless the software is developed on the orders of the Other Party, other than for a fixed price, in which case Prowise will invoice the costs of the repair pursuant to its standard rates. The obligation to repair lapses if the Other Party makes changes to the software or arranges for it to be amended without Prowise's written consent;
10. Prowise has no obligation of any nature or content in relation to errors that are reported after the warranty period referred to in clause 9.

Article 8 Retention of title

1. Notwithstanding delivery, title to and ownership of the goods supplied by Prowise to the Other Party under this Agreement (in this clause 8, referred to as "**Goods**") shall not pass to the Other Party until Prowise has received in full (in cash or in cleared funds) all sums due to Prowise in respect of:
 - the Goods; and
 - all other sums which are or which become due to Prowise from the Other Party on any account;
 ("**Payment**");
2. Until Payment, the Other Party must:
 - hold the Goods on a fiduciary basis as Prowise's bailee;
 - hold the Goods in good, saleable conditions and keep them insured against all risks for their full price from the date of delivery;
 - keep an up-to-date list of the location of Prowise's property and present this to Prowise on request;
 - not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

- store the Goods separately from other goods or in any way so that they remain readily identifiable as Prowise's property.
3. If the Goods are attached to or incorporated into any other materials or goods, the property in the new material or good shall vest in Prowise until Payment in the proportion of the value of the Goods to the other constituent elements;
 4. If, before title passes, the Other Party becomes subject to any of the events listed in clause 10.1 below, then, without limiting any other right or remedy Prowise may have, the Other Party's right to resell the Goods, or use them in the ordinary course of the Other Party's business, ceases immediately;
 5. Prowise may at any time until title passes under this clause 8 without notice recover possession of the Goods which are Prowise's property. The Other Party hereby grants, or procures the grant, to Prowise and Prowise's employees, agents and subcontractors, an irrevocable licence to enter for that purpose any premises then occupied by or in the ownership or possession of the Other Party or the Other Party's direct or indirect customer. The Other Party must indemnify Prowise against all claims, losses, damages, liabilities, costs and expenses so arising;
 6. Prowise shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Prowise;
 7. On termination of this Agreement for any reason, Prowise's rights contained in this clause 8 shall remain in full force and effect;

Article 9 Guarantee

1. Prowise guarantees that the goods supplied are free from defects and that they meet the usual requirements and standards in force in the UK;
2. If the goods to be supplied do not comply with the guarantee, Prowise will choose on one's own discretion to
 - (I) repair the defective Products; or
 - (II) replace the defective Products; or
 - (III) refund the purchase price of the defective Products to the Other Party.

The foregoing constitutes Prowise's sole remedies and Prowise's sole obligations in the event of a breach of warranty;
3. In the event of clause 9.3 sub (II) Prowise will replace the goods within a reasonable term after receiving them, or, in the event the goods cannot reasonably be returned, replace them after being notified by the Other Party in writing of the defect. The Other Party already undertakes at this stage to return the replaced goods to Prowise and to grant Prowise ownership of the goods concerned;
4. The aforementioned guarantee does not apply when the defect has arisen as a result of the outside causes, such as weather influences, water or fire damage and using, storing or transporting the goods improperly or inappropriately, or if the goods have been used for purposes for which they were not intended;
5. As long as the Other Party does not meet its obligations arising from the agreements entered into by the parties, it cannot invoke this warranty clause;
6. Prowise has a specific warranty arrangement for each of its goods. These arrangements can be found in Prowise's warranty conditions.

Article 10 Suspension and termination

1. Prowise is entitled to suspend its compliance with its obligations or to terminate the Agreement, in the event:
 - the Other Party does not meet its obligations arising from the Agreement and/or from these general terms and conditions;
 - Prowise has discovered circumstances after entering into the Agreement that constitute a good reason to believe that the Other Party will not meet its

obligations. In the event good reason exists to fear that the Other Party will comply only partially or will fail to comply properly, the suspension is only permitted insofar the default justifies it;

- of insolvency, winding up or other financial difficulty of the Other Party;
 - the Other Party is asked at the time the Agreement is entered into to provide security for its obligations under the agreement and if such security is not forthcoming or inadequate. As soon as security has been provided, the right to suspensions lapses, unless carrying out the contract has been unreasonably delayed as a result.
2. In addition, Prowise is entitled to terminate the Agreement or to have it terminated in the event of circumstances which by their nature make compliance with the Agreement impossible or as a result of which Prowise can no longer be expected to comply in accordance with the standards of reasonableness and fairness, or if circumstances occur which are such that according to criteria of reasonableness unaltered maintenance of this Agreement cannot be required of the parties;
 3. If the Agreement is terminated, Prowise's claims against the Other Party become immediately due and payable. If Prowise suspends compliance with its obligations, it retains its entitlements based on the law and on the Agreement;
 4. Prowise retains its right at all times to claim damages.

Article 11 Liability

1. This clause 11 sets out the entire financial liability of Prowise (including any liability for the acts or omissions of their respective employees, agents and subcontractors) to the Other Party for:
 - any breach of this Agreement however arising;
 - any use made or resale of the Goods by the Other Party, or of any product incorporating any of the Goods; and
 - any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
2. Nothing in this Agreement shall limit or exclude the liability of either party for:
 - death or personal injury resulting from negligence; or
 - fraud or fraudulent misrepresentation; or
 - breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - breach of section 2 of the Consumer Protection Act 1987.
3. Without prejudice to clause 11.2 above, Prowise shall not under any circumstances whatever be liable to the Other Party, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:
 - loss of profit; or
 - loss of goodwill; or
 - loss of business; or
 - loss of business opportunity; or
 - loss of anticipated saving; or
 - loss or corruption of data or information; or
 - special, indirect or consequential damage;

that arises under or in connection with this Agreement.
4. Without prejudice to clause 11.2 above, Prowise's total liability arising under or in connection with this Agreement, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to:
 - 110% of all amounts paid and total other sums payable, in aggregate, by the Other Party to Prowise under this Agreement in the 12 months prior to the date on which the claim first arose;

5. Except in the event of intent or gross negligence by Prowise, the Other Party will indemnify Prowise against any claims from third parties on any basis whatsoever, in relation to compensation for loss, expenses or interests, in connection with the Goods and/or arising from the use of the Goods, unless the Other Party is entirely blameless in relation to the damage.

Article 12 Force majeure

1. The Parties are not obliged to comply with any obligation, if they are impeded following circumstances that they cannot be blamed for or which do not constitute a legal act that they can be held accountable for by application of law or by commonly held beliefs;
2. In these general terms and conditions, force majeure is taken to mean everything that it is defined as by law and in jurisprudence, as well as any external causes, whether or not they are anticipated, which are outside Prowise's influence, but which prevent Prowise from carrying out its obligations, including power cuts, traffic jams, industrial strikes and poor weather conditions;
3. Prowise also has the right to invoke force majeure if the circumstance that prevents any (continued) compliance sets in after Prowise should have complied with its obligations;
4. The parties can suspend their obligations based on the Agreement for the duration of the force majeure conditions. If the period continues for longer than two months, either party is entitled to terminate the Agreement without any obligation to compensate the other party's loss;
5. Insofar Prowise at the time the force majeure sets in has already partially complied with its obligations based on the Agreement or will be able to comply with them, and if the completed part or outstanding part of the agreement has independent value, Prowise will be entitled to invoice for respectively the part already complied with or still to be complied with separately. The Other Party is obliged to settle that invoice as if it related to a separate Agreement.

Article 13 Intellectual property rights

1. Prowise remains the owner/right holder of all the industrial and intellectual property rights supplied in relation to the materials made available by Prowise - and the inventions, drawings, models and copyrighted works contained in them - and software, if and insofar it is not covered by third party's intellectual property rights;
2. If the goods or products made available by Prowise - and the inventions, drawings, models and other copyrights they contain - as well as software are covered by third parties' industrial and intellectual property rights, these will be supplied on the basis of a licence and guarantee of the licensor. The Other Party must meet the requirements that the licensor imposed on the use;
3. The Other Party is obliged to refrain from taking any action that would constitute an infringement of a patent, copyright, trademark right or licence. Imitation, copying or reproductions in any sense are therefore prohibited.

Article 14 Privacy

Prowise attaches particular importance to data protection and the security of personal data. Prowise processes personal data in accordance with the provisions of the General Data Protection Regulation, as well as other applicable laws and regulations. Prowise has recorded its privacy policy in a privacy statement, which can be accessed on the website www.prowise.com.

Article 15 Applicable law/competent court

1. All Prowise's offers and quotes and any agreements it enters into will be solely governed by English law.
2. Any disputes that would arise between Prowise and the Other Party, including as a result from quotes, offers, agreements, deliveries and services performed, will be referred to the competent English court.