

Terms & Conditions

THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THE PROVISIONS OF CLAUSE 8.

1. BASIS OF CONTRACT

- 1.1** The terms and conditions set out herein (these "Conditions") apply to the contract (the "Contract") between Sedia Systems EMEA Limited ("Supplier") and the person who purchases goods from Supplier (the "Customer") to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.2** The Customer's order (the "Order") for the goods set out in the Order ("the "Goods") (whether by written purchase order or acceptance of the Supplier's quotation) constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable specification for the Goods agreed in writing by the Supplier and the Customer ("Specification") are complete and accurate.
- 1.3** The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 1.4** The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 1.5** Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 1.6** A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 60 Business Days from its date of issue.
- 1.7** Orders acknowledged by Supplier cannot be changed or cancelled without Supplier's consent, which consent may be conditioned upon Customer's agreement to pay increased or additional expenses resulting from the requested change or cancellation including but not limited to a twenty-five percent (25%) cancellation charge if order is cancelled or changed at least thirty (30) days before shipment. No refund or credit will be given for orders cancelled within thirty (30) days of shipment or orders involving custom product.

2. GOODS

- 2.1** The Goods are described in the Supplier's catalogue as modified by any applicable Specification.
- 2.2** To the extent, if any, that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 2.2 shall survive termination of the Contract.
- 2.3** The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

3. DELIVERY

- 3.1** The Supplier shall ensure that:
- (a) each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the contract number, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (b) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
- 3.2** The Supplier shall deliver the Goods
- (a) Customer located within the EU:
DDP (Incoterms 2010) to the location set out in the Order or such other location as the parties may agree
 - (b) Customer located outside the EU:
FCA (Incoterms 2010) to Arcese, Via Emilia 21 – ZA Gottardo, 31038 Padermello di Paese (TV)

- 3.3** Delivery shall take place at any time after the Supplier notifies the Customer that the Goods are ready.
- 3.4** Delivery is completed on the completion of loading of the Goods at the delivery location specified in clause 3.2.
- 3.5** Supplier will consider requests for delivery times and for drop shipments to job sites however any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event (as defined in clause 9 or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods).
- 3.6** If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.7** If the Customer fails to accept delivery of the Goods within seven days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the seventh day after the day on which the Supplier notified the Customer that the Goods were ready; and
 - (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 3.8** If 14 days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 3.9** The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4. WARRANTY**
- 4.1** Supplier warrants Goods purchased hereunder to be substantially free from defects in materials and workmanship provided Supplier receives written notice of an alleged defect within the time periods set forth below ("Warranty"). Supplier will, at its sole option, repair or replace product that it determines to be defective as a result of faulty material or workmanship:
- (a) Structural Components 10 Years
 - (b) Operating Mechanisms, Plastic, Wood & Electrical Components 5 Years
 - (c) Upholstery Components, Non-Standard Product 1 Year
- 4.2** Such repair or replacement shall be the sole and exclusive remedy for any breach of the Warranty. Customer agrees and acknowledges that such repair or replacement is an adequate remedy. In the event Supplier fails to repair or replace a product it has determined is defective as provided herein, the Customer's remedy shall be the return of the purchase price actually paid by Customer for the defective product on a prorated basis based upon a useful life of ten (10) years.
- 4.3** Exceptions to Warranty coverage:
- (a) Normal wear and tear of upholstery
 - (b) Evidential abuse or mishandling
 - (c) Inappropriate use of product
 - (d) Use of unsuitable cleaning products
 - (e) Installation on flooring or wall that does not meet minimum structural requirements
 - (f) Material alteration of product
 - (g) Natural variations occurring in wood and leather, and/or color fastness, and/or variations in matching colors, grains or textures of materials shall not be considered defects.

- 4.4** The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 4.1 in any of the following events:
- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 4.1;
 - (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - (c) the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;
 - (d) the Customer alters or repairs such Goods without the written consent of the Supplier;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 4.5** Supplier HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO PRODUCTS AND ANY SERVICES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
- 5. TITLE AND RISK**
- 5.1** The risk in the Goods shall pass to the Customer on completion of delivery.
- 5.2** Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums.
- 5.3** Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 7.1; and
 - (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 5.4** Subject to clause 5.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- (a) it does so as principal and not as the Supplier's agent; and
 - (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 5.5** If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 7.1, then, without limiting any other right or remedy the Supplier may have:
- (a) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - (b) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6. PRICE AND PAYMENT

- 6.1** The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery.
- 6.2** The Supplier may, by giving notice to the Customer at any time up to 30 days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 6.3** The price of the Goods:
- (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice;
 - (b) excludes the costs and charges of insurance and transport of the Goods, which shall be invoiced to the Customer except where the Goods sold are the JUMPSEAT, in which case the price shall include insurance and transport;
 - (c) excludes the installation of the Goods, which is not carried out by the Supplier.
- 6.4** Unless otherwise expressly agreed in writing, the Supplier shall invoice the Customer for the Goods at the time the Order is received and payment shall be made prior to production release.
- 6.5** If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above 12 month EURIBOR from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.6** The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

7. TERMINATION

- 7.1** Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer commits a material breach of any term of the Contract (including without limitation failing to pay any amount due to the Supplier) and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so; or
 - (b) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business or 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), 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 or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.
- 7.2** Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 7.1(a), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 7.3** On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.
- 7.4** 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 this Contract that existed at or before the date of termination.

8. LIMITATION OF LIABILITY

8.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

8.2 Subject to clause 8.1:

- (a) the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

9. FORCE MAJEURE

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from an event or circumstance beyond a party's reasonable control ("Force Majeure Event"). If the period of delay or non-performance continues for 8 weeks, the party not affected may terminate this Contract by giving 14 days written notice to the affected party.

10. GENERAL

10.1 INSTALLATION

A Supplier approved installer is recommended to install all fixed-seating product. If Customer prefers to work with a nonapproved installer, Supplier will supervise for a fee of €1,000 per day plus travel expenses.

10.2 ASSIGNMENT AND OTHER DEALINGS.

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

10.3 ENTIRE AGREEMENT.

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

10.4 **VARIATION.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10.5 **WAIVER.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

10.6 **SEVERANCE.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

10.7 NOTICES.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 10.7(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the third day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or, one business day after transmission (provided that is the day specified in this clause is a Saturday, Sunday or bank holiday in Ireland, the notice shall be deemed to be delivered on the next business day in Ireland)..
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

10.8 GOVERNING LAW AND JURISDICTION. 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 law of Ireland. Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.