

TERMS and CONDITIONS of SALE

Application and entire agreement

1. These Terms and Conditions apply to the purchase of the goods (**Goods**) and to the provision of the services (**Services**) detailed in our quotation by CHESS WISE LIMITED, a company registered in England and Wales under number 11448878 whose registered office is at The Old Rectory, Springhead Road, Northfleet, Gravesend, Kent, DA11 8HN (**we** or **us**) to the company or person buying the services (**you**).
2. You are deemed to have accepted these Terms and Conditions when you accept our quotation, or you accept the quotation by means of an order, or from the date of any delivery of the Goods, or from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our quotation (**the Contract**) are the entire agreement between us.
3. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf. These Conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

Interpretation

4. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
5. The headings in these Terms and Conditions are for convenience only and will not affect their interpretation.
6. Words imparting the singular number include the plural and vice-versa.

Goods

7. The description of the Goods is set out in our sales documentation, unless expressly changed in our quotation. In accepting the quotation you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us. Descriptions of the Goods set out in our sales documentation are intended as a guide only.
8. We can make any changes to the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements.

Services

9. We warrant that we will use reasonable care and skill in our performance of the Services which will comply with the quotation, including any specification in all material respects. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.
10. We will use our reasonable endeavours to complete the performance of the Services within the time agreed or as set out in the quotation; however, time shall not be of the essence in the performance of our obligations.
11. All of these Terms and Conditions apply to the supply of any Goods as well as Services unless we specify otherwise.

Your obligations

12. You must obtain any permissions, consents, licences or otherwise that we need and must give us access to any and all relevant information, materials, properties and any other matters which we need to provide the Services.
13. In case services are executed on-site (for example commissioning), you must ensure:
 - a. that all relevant components, including sensors, are connected according to wiring diagrams and installed according to the controls design plan
 - b. that all luminaires must be powered at least 24 hours before the date of commissioning
 - c. that no nodes and devices (including the ones integrated into luminaires) are moved during or after commissioning
 - d. full cooperation with us in all matters in relation to the commissioning;
 - e. access to the premises and other facilities as reasonably required by us to do the commissioning;
 - f. that you keep and maintain any materials, equipment, documents or property of ours at your premises in safe custody at your own risk
 - g. a safe environment in which to perform the commissioning
 - h. that no changes are made to the requirements for grouping, light levels, timings, settings, etc. as to what is specified in the controls design plan.
14. If you do not comply with clause 12 and 13, we:
 - a. may suspend performance of the Services until this is rectified.
 - b. may delay the Services to a later date
 - c. will not be liable for any costs or losses
 - d. may charge for any costs or losses sustained or incurred (directly or indirectly). If you fail to provide necessary approvals, instructions, or access by agreed deadlines, causing delay to the project, or if you request any changes or additions to the agreed scope of work, we shall be entitled

to charge additional fees, at our discretion, of £200 per day as a genuine pre-estimate of the costs incurred due to such delay

e. can terminate the Services.

15. We are not liable for any delay or failure to provide the Services if this is caused by your failure to comply with the provisions of this section (**Your obligations**).

Price

16. The price (**Price**) of the Goods is set out in our quotation current at the date of your order or such other price as we may agree in writing.
17. If the cost of the Goods to us increases due to any factor beyond our control including, but not limited to, material costs, labour costs, alteration of exchange rates or duties, or changes to delivery rates, we can increase the Price prior to delivery.
18. Any increase in the Price under the clause above will only take place after we have told you about it.
19. You may be entitled to discounts. Any and all discounts will be at our discretion.
20. The Price is exclusive of fees for packaging and transportation / delivery.
21. The Price is exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.
22. For orders with a value lower than £350 an administration fee of £50 will be added to your invoice

Fees

23. The fees (**Fees**) for the Services are set out in the quotation and are on a time and materials basis.
24. In addition to the Fees, we can recover from you a) reasonable incidental expenses including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, b) the cost of services provided by third parties and required by us for the performance of the Services, and c) the cost of any materials required for the provision of the Services.
25. You must pay us for any additional services provided by us that are not specified in the quotation in accordance with our then current, applicable daily rate in effect at the time of performance or such other rate as may be agreed between us. The provisions of clause 24 also apply to these additional services.
26. The Fees are exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

Cancellation and amendment

27. Details of the Goods as described in the clause Goods (above) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.
28. The quotation (including any non-standard price negotiated in accordance with the clause on Price (above) is valid for a period of 2 months only from the date shown in it unless expressly withdrawn by us at an earlier time.
29. We can withdraw, cancel or amend a quotation if it has not been accepted by you, or if the Services have not started, within a period of 2 months from the date of the quotation, (unless the quotation has been withdrawn).
30. Either we or you can cancel an order for any reason prior to your acceptance (or rejection) of the quotation.
31. If you want to amend any details of the Services you must tell us in writing as soon as possible. We will use reasonable endeavours to make any required changes and additional costs will be included in the Fees and invoiced to you.
32. If, due to circumstances beyond our control, including those set out in the clause below (**Circumstances beyond a party's control**), we have to make any change in the Services or how they are provided, we will notify you immediately. We will use reasonable endeavours to keep any such changes to a minimum.

Payment

33. We will invoice you for the Price or Fees either:
 - a. on or at any time after delivery of the Goods; or
 - b. where the Goods are to be collected by you or where you wrongfully do not take delivery of the Goods, at any time after we have notified you that the Goods are ready for collection or we have tried to deliver them.
 - c. when we have completed the Services; or
 - d. on the invoice dates set out in the quotation.
34. You must pay the Price for 50% in advance and for the remainder of the Price and the Fees within 15 days of the date of our invoice or otherwise according to any credit terms agreed between us.
35. You must make payment even if delivery has not taken place and / or that the title in the Goods has not passed to you.
36. Time for payment shall be of the essence of the Contract.
37. Without limiting any other right or remedy we have for statutory interest, if you do not pay within the period set out above, we will charge you interest at the rate of 20% per annum above the base lending rate of the Bank of England from time to time on the amount outstanding until payment is received in full
38. All payments due under these Terms and Conditions must be made in full without any deduction or withholding except as required by law and neither of us

can assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

39. If you do not pay within the period set out above, we can suspend any further deliveries to you, and we can suspend any further provision of the Services and cancel any future services which have been ordered by, or otherwise arranged with, you.
40. Receipts for payment will be issued by us only at your request.
41. All payments must be made in British Pounds or Euros unless otherwise agreed in writing between us.

Delivery

42. We will arrange for the delivery of the Goods to the address specified in the quotation, or your order or to another location we agree in writing.
43. If you do not specify a delivery address or if we both agree, you must collect the Goods from our premises.
44. Subject to the specific terms of any special delivery service, delivery can take place at any time of the business day and must be accepted at any time between 8 am to 8 pm.
45. If you do not take delivery of the Goods we may, at our discretion and without prejudice to any other rights:
 - a. store or arrange for the storage of the Goods and will charge you for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and / or
 - b. make arrangements for the redelivery of the Goods and will charge you for the costs of such redelivery; and/or
 - c. after 10 business days, resell or otherwise dispose of part or all of the Goods and charge you for any shortfall below the price of the Goods.
46. If redelivery is not possible as set out above, you must collect the Goods from our premises and will be notified of this. We can charge you for all associated costs including, but not limited to, storage and insurance.
47. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
48. We can deliver the Goods by installments, which will be invoiced and paid for separately. Each installment is a separate contract. Any delay in delivery or defect in an installment will not entitle you to cancel any other installment.

Sub-Contracting and assignment

49. We can at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these Terms and Conditions and can subcontract or delegate in any manner any or all of our obligations to any third party.
50. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms and Conditions.

Inspection and acceptance of Goods

51. You must inspect the Goods on delivery or collection.
52. If you identify any damages or shortages, you must inform us in writing within 5 days of delivery, providing details.
53. Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.
54. Subject to your compliance with this clause and/or our agreement, you may return the Goods and we will, as appropriate, repair, or replace, or refund the Goods or part of them.
55. We will be under no liability or further obligation in relation to the Goods if:
 - a. if you fail to provide notice as set above; and/or
 - b. you make any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or
 - c. the defect arises because you did not follow our oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or
 - d. the defect arises from normal wear and tear of the Goods; and/or
 - e. the defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by you, your employees or agents or any third parties.
56. You bear the risk and cost of returning the Goods.
57. Acceptance of the Goods will be deemed to be upon inspection of them by you and in any event within 1 day after delivery.

Risk and title

58. The risk in the Goods will pass to you on completion of delivery or part thereof as per Clause 48.
59. Title to the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for: (a) the Goods and/or (b) any other goods or services that we have supplied to you in respect of which payment has become due.

60. Until title to the Goods has passed to you, you must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy we may have, we can at any time ask you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.

61. Where Services consists of subscriptions to online Cloud software the Service is considered delivered at the moment of first usage. The subscription will automatically renew for a subsequent period of one year at the moment the duration of the subscription expires, unless you inform us at least 2 month prior to this expiration date that you want to stop this subscription.

Termination

62. We can terminate the sale of Goods and/or provision of the Services immediately if you:
- commit a material breach of your obligations under these Terms and Conditions; or
 - fail to make pay any amount due under the Contract on the due date for payment; or
 - are or become or, in our reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
 - enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with its creditors; or
 - convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of you, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for your winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency.

Intellectual property

63. We reserve all copyright and any other intellectual property rights which may subsist in any goods supplied in connection with the provision of the Goods and Services. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.

Liability and indemnity

64. Our liability under these Terms and Conditions, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this clause.
65. Subject to the clauses above on **Inspection and Acceptance** and **Risk and Title**, all warranties, conditions or other terms implied by statute or common law (save for those implied by Section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.
66. The total amount of our liability is limited to the total amount of the Price and Fees payable by you under the Contract.
67. We are not liable (whether caused by our employees, agents or otherwise) in connection with our provision of the Services or the performance of any of our other obligations under these Terms and Conditions or the quotation for:
- a. any indirect, special or consequential loss, damage, costs, or expenses or;
 - b. any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; or
 - c. any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; or
 - d. any losses caused directly or indirectly by any failure or your breach in relation to your obligations; or
 - e. any losses arising directly or indirectly from the choice of Services and how they will meet your requirements or your use of the Services or any goods supplied in connection with the Services.
68. You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.
69. Nothing in these Terms and Conditions shall limit or exclude our liability for death or personal injury caused by our negligence, or for any fraudulent misrepresentation, or for any other matters for which it would be unlawful to exclude or limit liability.

Circumstances beyond the control of either party

70. Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question. If the delay continues for a period of 90 days, either of us may terminate or cancel the Services to be carried out under these Terms and Conditions.

Communications

71. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).
72. Notices shall be deemed to have been duly given:
- a. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
 - b. when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
 - c. on the fifth business day following mailing, if mailed by national ordinary mail; or
 - d. on the tenth business day following mailing, if mailed by airmail.
73. All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

No waiver

74. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

Severance

75. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

Law and jurisdiction

76. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.