

## SpaceKraft Terms and Conditions of Sale (effective from October 2015)

Please read these Conditions carefully before ordering any Goods from SpaceKraft. You agree to be bound by these Conditions upon ordering any Goods.

If you are a reseller of the Goods, these Conditions apply, together with the SpaceKraft Terms and Conditions for Resellers (available at [www.spacekraft.co.uk](http://www.spacekraft.co.uk) or copy available on request).

### 1. DEFINITIONS

1.1 The following definitions apply to these Conditions:

“Acceptance Tests”	means activities carried out by SpaceKraft in accordance with our standard procedures to demonstrate the correct commissioning and functionality of the Works;
“Business”	means any customer (typically an educational establishment) other than a Consumer;
“Conditions”	these terms and conditions, together with any Quotation and, if you are a reseller, the SpaceKraft Terms and Conditions for Resellers;
“Consumer”	means you are purchasing as an individual and not on behalf of a business, acting for purposes wholly or mainly outside your trade, business, craft or profession;
“Goods”	means the products or services we are selling to you as set out in the Order, including the Works;
“Order”	means your Order for the Goods, or the document defining the Works to be carried out by SpaceKraft on your behalf;
“Quotation”	means the quotation which is given to you relating to the Goods;
“Site”	means <a href="http://www.spacekraft.co.uk">www.spacekraft.co.uk</a> ;
“Works”	means the agreed set of activities and installation to be carried out for you by SpaceKraft; and
“you”	means the person, company, organisation or other entity entering into the Order for the Goods.

1.2 Written / writing includes email.

1.3 Headings do not affect the interpretation of these Conditions.

### 2. BASIS OF SALE

These Conditions will apply to any Order for Goods placed by you and to the contract between us for the sale of such Goods to you.

### 3. QUOTATION / CONSULTATION

3.1 The Quotation SpaceKraft provide is based on the information that SpaceKraft have been supplied and/or relevant plans. The Quotation is valid at the time of Quotation and will expire if not accepted by you within ninety (90) days. If the Quotation provided was based on an unfinished building, SpaceKraft reserve the right to make additional charges where additional costs have been incurred due to variations in the final dimensions or details. Any request for variations to the Works must be submitted in writing and will only be enacted following authorisation by both parties.

3.2 As part of the consultation process and based on SpaceKraft's extensive experience of multisensory products and facilities, we will do our utmost to ensure that the items SpaceKraft specify in the Quotation are the most appropriate for the people who will be using the equipment in conjunction with their needs. On placement of the Order, you assume full responsibility for the appropriateness of the items and indemnify SpaceKraft for any and all claims in relation to this.

### 4. FORMATION OF ORDER AND ACCEPTANCE

- 4.1 You may place an Order:
- 4.1.1 if it is made on an official SpaceKraft order form; or
  - 4.1.2 online through the ordering process on the Site (note this option may not be available for resellers and / or international customers); or
  - 4.1.3 in such form of written memorandum as you and SpaceKraft may find acceptable; or
  - 4.1.4 by telephone (note this option may not be available for resellers and / or international customers).
- 4.2 After you place the Order, you should receive an email from us acknowledging that we have received the Order. Where you have not supplied your email address with the Order, but we hold an email address for you in our system, we will send the acknowledgment to that email address. If we do not hold an email address for you, we will send the Order acknowledgment by either fax or post. This is when the contract is made between us.
- 4.3 We may refuse the Order for any reason at our sole discretion.
- 4.4 Please note that certain goods and promotions are only available in mainland United Kingdom and, as such, may be unavailable in the region or country from which you are accessing the Site and / or published materials.

## **5. DESCRIPTION OF GOODS**

- 5.1 Any samples, drawings, descriptions or illustrations contained in our published materials (including on the Site), are issued or published solely to provide you with an approximate idea of the Goods they describe: they do not form part of the contract between you and us for the sale of the Goods and are subject to correction without any liability on the part of SpaceKraft. We may make minor changes, which do not materially affect the performance of the Goods, to the specification of the Goods at any time and without notice.
- 5.2 The images of the Goods shown in the electronic or printed catalogue are for illustrative purposes only. Variations in the colour due to photography, publishing or your computer's display can occur. You acknowledge that the Order is placed at your own risk if, for example, the colour, shade representation, dimensions or texture of the Goods differs from the image in the published materials.
- 5.3 If we discover an error in the price of the Goods you have Ordered (e.g. incorrect price displayed in one of our catalogues, online or in any other materials or media), we will contact you to inform you of this error and we will give you the option of continuing to purchase the Goods at the correct price or cancelling the Order. Please note that we do not have to provide the Goods to you at the incorrect (lower) price.
- 5.4 Please always read labels, warnings and directions provided with the Goods before use.
- 5.5 We accept no responsibility for any drawing, design, measurement or specification not prepared by SpaceKraft.

## **6. TITLE RETENTION**

- 6.1 Title in the Goods shall not pass to you until both: (i) payment is received by us for the Goods; and (ii) no other amounts are outstanding from you to us in respect of any other goods supplied by us to you.
- 6.2 We can recover any Goods in respect of which ownership has not passed to you in accordance with clause 6.1 above at any time. You agree to, immediately following written request from us, allow us access to the Goods (and to such premises as are required to access the Goods) in order to facilitate such recovery.

## **7. THE WORKS**

- 7.1 All hardware, software and network cabling components associated with the Order must have been ordered and delivered from either SpaceKraft, or a third party supplier, in time for the commencement of the Works.
- 7.2 If there are any third party services required as part of the Works, these must have been arranged / completed before we commence the Works.
- 7.3 The date for the commencement of Works will be agreed between SpaceKraft and you.
- 7.4 An estimate of the duration of the on-site time will be provided to you in the Order. As this is an estimate only the time required on site may vary. Any changes in the time on site will be notified to you as soon as possible.
- 7.5 In the event that the SpaceKraft installation engineer completes the Works before the end of the allotted time, they will not be obliged to perform tasks not covered in the Order or to remain on site.
- 7.6 The SpaceKraft installation engineer will undertake a series of basic Acceptance Tests to demonstrate to you that the Works have been successfully completed.
- 7.7 Following completion of the Works you will be issued with a copy of the installation documentation. A full report detailing the exact configuration and set-up will only be issued if this has been agreed as part of the Order.

## **8. PRICE AND PAYMENT**

- 8.1 All prices are quoted in pounds Sterling, unless otherwise agreed in writing, and are:
  - 8.1.1 exclusive of VAT or applicable tax, which will be added to the total amount due;
  - 8.1.2 exclusive of any applicable bank charges, which will be added to the total amount due;
  - 8.1.3 for deliveries in the UK (excluding the Highlands, Islands and Northern Ireland) only, inclusive of standard delivery charges. You may opt for our next day delivery service which may incur additional charges;
  - 8.1.4 for Installation orders, unless given express permission by an authorised representative of the Company, a 40% deposit is required with each Installation. Payment of the remaining 60% is then due on completion; no further credit will be given
  - 8.1.5 for international destinations, exclusive of delivery charges (including but not limited to carriage, freight and insurance). We may invoice you for delivery charges on a separate invoice to the Goods; and
  - 8.1.6 for international destinations, unless otherwise agreed in writing between the parties in accordance with Incoterms 2010, exclusive of any applicable import duties and taxes, which are levied once the Goods reach the specified destination. Any additional charges for customs clearance must be borne by you; we have no control over these charges. Customs policies vary widely from country to country, so you should contact your local customs office for further information.
- 8.2 Eligible bodies such as registered charities may be subject to VAT exemption on Goods. A written VAT exemption declaration must be submitted at the time of ordering to qualify for VAT exemption.
- 8.3 If you do not have credit terms with us, payment for all Goods, or certain other sums which become payable under clause 8.1, must be made in advance by credit or debit card (UK only), BACS or by cleared Sterling cheque.
- 8.4 If you have credit terms with us, we may invoice you for the Goods on or around the date we have despatched the Goods to you or upon successful completion of the Works. You must pay the invoice in cleared monies within thirty (30) calendar days of the date of the invoice.

- 8.5 If you do not make any payment due to us by the due date for payment (as set out in clauses 8.3 and 8.4), we may charge interest and compensation to you on the overdue amount at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.6 Without limiting any other remedies or rights that we may have, if you do not pay us on time, we may cancel or suspend any Order (both the one to which the payment relate(s) and any other Order) until you have paid the outstanding amounts.

## **9. DELIVERY**

- 9.1 Subject to clause 9.7 below, risk in the Goods shall pass to you when the Goods are delivered to, or collected by, you or your agent.
- 9.2 Dates for delivery of the Goods or Works are estimates only and are subject to our availability schedule. We shall make every reasonable effort to meet any delivery / installation date(s) acknowledged but shall not be liable for failure to meet such date(s).
- 9.3 We will deliver / install the Goods to the designated address in the Order, or such other address as we both agree, which will be confirmed on the Order acknowledgment. You should ensure that you are, or a trusted representative is, physically present at the time of delivery / installation. We will presume that any person at any address you specify has the authority to receive the Order on your behalf.
- 9.4 If we are unable to deliver the whole of the Order at one time due to, for example, operational reasons or shortage of stock, we may deliver the Order in instalments. There will be no additional delivery cost for this. Where SpaceKraft exercises its right to deliver the Order in instalments, the original contract shall be deemed varied and divided into separate contracts for each instalment.
- 9.5 Deliveries shall be made by us or an appointed third party to the delivery premises. Where you request delivery to be made to a location within the delivery premises, you shall advise us accordingly at the time of placing the Order for which there may be an additional charge. We do not guarantee that we will be able to accommodate your delivery request. However, should we be able to, you agree to procure all access and relevant facilities (e.g. use of a lift).

### **International Delivery**

- 9.6 Under regulations governing United Kingdom trade and by virtue of our agreements with suppliers, we require to be pre-notified of shipments outside the United Kingdom. You are required to obtain all necessary licences at the time you place the Order. Delivery of Goods is subject to all such authorisations being available at the time of delivery.
- 9.7 In accordance with Incoterms 2010, SpaceKraft's standard trading terms are FCA SpaceKraft Warehouse UK (similar to Ex Works Incoterms 2000). If you need clarification on when the risk passes to you as the buyer, please contact us. Any other Incoterms must be agreed in writing. Please contact us if you require a quote for delivery.
- 9.8 Delivery lead times to international addresses will vary according to destination and mode of transport. If delays occur for any reason we will make every effort to keep you informed.

## **10. ORDER AMENDMENTS**

SpaceKraft may, at its sole discretion, accept or reject any requests for amendments to Orders prior to despatch.

## **11. CANCELLATION AND RETURNS**

- 11.1 If you are a Consumer, you have a legal right to cancel the Order and request the return of the Goods under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 up to fourteen (14) days after the day on which you receive the Goods or

place an Order for the Works. This means that, during the relevant period, if you change your mind or decide for any other reason that you do not want to receive or keep the Goods, or receive the Works, you can notify us of your decision to cancel the Order (our details can be found on the 'Get in Touch' section on the Site) and receive a refund for the price you have paid for the Goods and / or Works, together with the original delivery charges (if applicable). This cancellation right does not apply in the case of non-returnable Goods as set out in clause 11.6 below.

We also provide the above fourteen (14) day cancellation right to our UK Business customers (excluding resellers) in respect of Goods.

- 11.2 If you cancel the Order in accordance with clause 11.1, you must contact our customer services team no later than fourteen (14) days from delivery of the Goods for us to agree to arrange return of the Goods. All Goods must be unused and in their original boxes and packaging, including any manuals, software or accessories supplied with the Goods. You should send the Goods back by following the instructions given to you no later than fourteen (14) days from the day on which you communicated your cancellation to us.
- 11.3 If you cancel any Works (or re-schedule and subsequently cancel any Works) then you may be charged a cancellation charge of 75% of the total price of the Works if notice of cancellation is given less than seven (7) calendar days before the scheduled commencement date of the Works. You agree that such charge amounts to a genuine pre-estimate of the losses suffered by SpaceKraft on such cancellation.
- 11.4 If you are a UK Business customer and you cancel a large / furniture item (as defined by SpaceKraft at its discretion) in accordance with clause 11.1 above, we will charge you a restocking fee of 20% of the Order value, plus the cost of the collection.
- 11.5 Clauses 11.1, 11.2 and 11.3 above do not apply to our resellers or our international customers. Instead, you may cancel the Order before despatch of the Goods. We shall be entitled to charge you a cancellation and restocking fee of up to, but not greater than, the total Order value, which we shall confirm to you shortly after the time of cancellation. Once the Goods have been despatched, the Order cannot be varied or cancelled.
- 11.6 If we will refund monies to you, we will usually refund you by the method of payment you used, for example, if you paid for the Goods by Bank transfer, we will ask for your Bank details so we can refund you by Bank transfer. If you used vouchers to pay for the Goods we may refund you in vouchers.

### **Non-returnable Goods**

- 11.7 Returns of the Goods will not be accepted in the following circumstances:
  - 11.7.1 the Goods were made to your own specification, personalised or customised, or configured to order;
  - 11.7.2 audio or video recordings that have been unsealed; or
  - 11.7.3 open packaged software or pre-loaded / downloaded software licences; or
  - 11.7.4 such other Goods identified in the SpaceKraft Order from time to time; or
  - 11.7.5 the date for the Works is scheduled within the 14 day period set out in clause 11.1.

### **Damage in transit**

- 11.8 We will accept responsibility for damage, storage or loss in transit only if:
  - 11.8.1 you report the damage or loss within fourteen (14) days of receipt of the Goods. Failure to notify us within fourteen (14) days of receipt will invalidate any claim with regard to the Goods;
  - 11.8.2 such loss or damage is noted on the consignment note or delivery document upon receipt;
  - 11.8.3 the packaging of the damaged item is retained for inspection; and
  - 11.8.4 the Goods are handled by you in accordance with our, or the carrier's, conditions of

carriage or handling stipulations.

Note this clause 11.8 does not affect the point risk transfers from us to you in accordance with clauses 8.1 or 8.7 above.

11.9 Where we accept responsibility under clause 11.8, we shall at our option replace, repair or refund any Goods proved to our satisfaction to have been lost or damaged in transit.

### **Warranty returns**

11.10 Warranty returns can be made under the warranty return provision in clause 12.

11.11 If having checked any Goods returned under clause 11.10, we have found that they are not faulty, or the defect arose from one of the circumstances set out in clause 12.3 below, in addition to not refunding you the Order value, we may charge you a handling fee equivalent to 20% of the price that you originally paid for the Goods or £10, whichever is the greater.

### **Termination by SpaceKraft**

11.12 SpaceKraft shall have the right, without prejudice to any other remedies, at any time by giving notice in writing to you to terminate forthwith the Order, in any of the following events:

11.12.1 if you commit any other breach of any of the Conditions provided that if the breach in question is one which you can effectively remedy then the said notice of termination shall not be effective to terminate the Order unless you fail within thirty (30) days of the date of such notice effectively to remedy the breach complained of; or

11.12.2 if you cease to carry on business or substantial part thereof, commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation whether compulsory or voluntary other than for the purposes of amalgamation reconstruction or compounds with its creditors generally or has a receiver or manager appointed over all or any part of its assets or suffers execution or distress or takes or suffers any similar action in consequence of debt or becomes unable to pay its debts as they fall due.

## **12. WARRANTIES**

12.1 SpaceKraft warrants the Goods to:

12.1.1 be free from material defects in design, material and workmanship;

12.1.2 comply with all applicable statutory and regulatory requirements for selling the Goods in the United Kingdom; and

12.1.3 in relation to the Works only, be performed with reasonable care and skill.

12.2 When you purchase Goods from us, if something goes wrong with the Goods, you should always contact us and we will do whatever we can to help. We may repair, replace or refund you for any Goods that have a material default at the point of sale, and up to a period of twelve (12) months from the date of delivery, provided the faulty Goods are returned complete with all components. Unless you specifically request a repair, replacement or refund, SpaceKraft will suggest the most applicable in the circumstances. However, this warranty does not apply in the circumstances described in clause 12.3.

12.3 The warranty in clause 12.2 does not apply to any defect in the Goods arising from:

12.3.1 fair wear and tear;

12.3.2 you, or any third party, not taking sufficient care, wilful damage or accident;

12.3.3 improper use or installation;

12.3.4 use of the Goods outside the specifications, or specific application, detailed in any SpaceKraft documentation (including on any website, etc) relating to the Goods; or

12.3.5 where the Goods have been repaired or modified by persons not authorised by SpaceKraft.

- 12.4 The Goods have been manufactured or developed by us or third parties to standard specifications. You accept that we are acting only as a supplier and that it is your responsibility to verify that the Goods will be suitable for your own requirements.
- 12.5 Without prejudice to your statutory rights, and except as set out in these Conditions, all warranties, conditions, guarantees or representations as to description, merchantability or fitness for a particular purpose, or other warranties, conditions, guarantees or representations, whether express, implied by statute or otherwise, oral or in writing, are expressly excluded.

### 13. BUYER'S RESPONSIBILITY

- 13.1 We may require you to take up all or some carpets and/or floor coverings before we start the Works; we will advise you if we need you to do so. You may decide to call a specialist contractor to do this work for you. Alternatively, it may be possible for us to do this work for you at a cost which we will agree in advance. It will be your responsibility to replace the flooring when the Works are completed.
- 13.2 It is your responsibility to ensure that SpaceKraft are made aware of any concealed pipes (including water and/or gas) and any electrical supplies or telephone / data cabling in the location of the Works. We will not be held responsible for damage to any of these services if this information is not provided.
- 13.3 Any defects or deficiencies subsequently found in the structure or premises which require to be attended to for the satisfactory completion of the Order will be your responsibility. It is deemed that all areas are free of asbestos. However, should this not be the case a clear definition of areas must be provided to enable the Works as stated in the Order to continue. Any variation in costs will be your responsibility.
- 13.4 We will take reasonable care to carry out the Works without causing unnecessary damage to your property. Subject to clauses 19.4 or 20.3 where applicable, while we will make good unnecessary damage directly caused by any negligence on our part, you accept that the installation and related work may cause some damage to finishings, both internally and externally, and that certain areas may need redecoration following completion of the installation. Redecoration will be your responsibility and is not included in the Quotation / Order.
- 13.5 If there are specific installation practices that you would prefer SpaceKraft not to employ (eg. using visible cable trunking) then you must inform us of this in writing no less than seven (7) days prior to the commencement of the Works. We will advise you if this has been included in the Quotation and, if not, advise you of the additional cost of complying with your request.
- 13.6 We shall not be held liable for any Works undertaken at your request if that work requires planning or other consents, which you have not obtained. It is your responsibility to apply and pay all appropriate fees for such consent prior to the commencement of the Order. SpaceKraft shall not have any liability for unauthorised works and you indemnify us for any losses howsoever arising that we incur from your failure to obtain such permission.
- 13.7 It is your responsibility to ensure, before SpaceKraft start the Works, that there is an adequate electricity supply as required. It may be possible for us to provide this although a separate quotation would be required for the additional work.
- 13.8 Where SpaceKraft have connected new equipment to your existing equipment, we will not accept responsibility for the cost of repairing or replacing parts of your existing equipment which subsequently develop faults, unless we have been negligent in not realising that such damage may occur or the way SpaceKraft carried out the work caused the fault.
- 13.9 Some equipment SpaceKraft install may come with a separate manufacturer's warranty. You are responsible for checking whether a separate warranty applies to the equipment SpaceKraft installs and you are responsible for maintaining any such warranty with the manufacturer directly.

- 13.10 Some equipment within the Quotation / Order may include ultraviolet reactive or ultraviolet sensitive equipment. It is your responsibility to ensure it is cared for properly by avoiding spillages of ultraviolet liquids and/or contamination with ultraviolet blocking substances such as sunscreen.

#### **14. INTELLECTUAL PROPERTY RIGHTS**

- 14.1 If notified promptly in writing of any action brought against you, based on a claim that your use of the Goods infringes a United Kingdom patent or copyright, we will defend such action at our expense and pay the costs and damages awarded, provided that we shall have sole control of the defence of any such action and all negotiations for its settlement or compromise. We will not have any liability to you under any provision of this clause if the infringement or claim thereof is based upon:
- 14.1.1 use of the Goods in combination with equipment or software not supplied by us; or
  - 14.1.2 any unauthorised modification of the Goods; or
  - 14.1.3 content, designs, specifications or software supplied by or on behalf of you.
- 14.2 If the indemnity in clause 14.1 applies, we shall, at our option and expense, either procure for you the right to continue using the Goods, replace or modify the same so that it / they become non-infringing, or grant you a credit for the Goods as depreciated and accept the return of the Goods. The options in this clause set out your sole and exclusive remedy for our infringement of intellectual property rights.
- 14.3 SpaceKraft (and/or its licensors) shall retain all rights, title and interest in any intellectual property rights in the Goods supplied to you under the Order or created in the course of providing the Goods.
- 14.4 You agree that you shall indemnify and defend us and our directors, officers and employees, against all claims (including the infringement of any patents, copyrights or trademarks), liability, damages, costs and expenses, including reasonable legal fees and expenses arising out of or related to: (i) your breach of these Conditions; or (ii) any suit, claim, or demand arising from or relating to any text, photograph, image, graphic or other material you incorporate into the Goods; or (iii) compliance with your designs, specifications or instructions

#### **15. DATA PROTECTION**

- 15.1 In these Conditions, the terms data controller, data processor, personal data, sensitive personal data and processing shall be as defined in the European Data Protection Directive 95/46/EC and "Data" shall mean the personal data and sensitive personal data provided to us in connection with these Conditions. "Data Protection Law" means applicable data protection legislation implementing the European Data Protection Directive 95/46/EC and any amendments, revisions, re-enactments or consolidations thereof.
- 15.2 You acknowledge that you are a data controller and that we are a data processor.
- 15.3 We shall:
- 15.3.1 use the Data only on your instructions as set out or referred to in these Conditions to provide the Goods;
  - 15.3.2 provide appropriate technical and organisational measures to protect the security of the Data, in particular against unauthorised or unlawful access or processing, alteration, accidental loss or destruction of or damage to the Data; and
  - 15.3.3 take all reasonable steps to ensure the reliability of any of our staff who have access to Data processed in connection with the supply of the Goods.
- 15.4 You acknowledge that our provision of the Goods under these Conditions may require the transfer of Data to our sub-contractors ("Recipients") outside the European Economic Area in



countries which have not been approved by the European Commission as having adequate protections in place for the purpose of the transfer of personal data. We will be permitted to transfer Data to such Recipients provided that we shall have entered into an agreement with the relevant Recipient based upon standard contractual clauses approved by the European Commission for transfers of personal data to processors outside of the European Economic Area and which agreement shall include security obligations on the Recipient which are no less onerous than those contained in these Conditions.

- 15.5 You also acknowledge that we may use products from other third parties in order to provide the Goods under these Conditions and that, in doing so, we may transfer Data to such third parties. This may include (by way of example only) third parties that provide online storage and other facilities. If we become aware of any such third party wishing to transfer Data outside the European Economic Area, we shall request that the third party enters into an agreement of the sort noted in clause 15.4 above.
- 15.6 You agree to comply with your obligations under Data Protection Law in relation to your collection, processing and provision of Data to us in connection with the Goods provided under these Conditions.
- 15.7 You shall indemnify and keep us indemnified against all costs, claims, losses, damages and expenses (including legal expenses) arising out of, or in connection with, any breach of this clause 15 by you and/or your employees, agents and/or sub-contractors.
- 15.8 You acknowledge that we are reliant on you for direction as to the extent to which we are entitled to use and process the Data. Consequently, we will not be liable for any claim brought by you or any data subject arising from any action or omission by us to the extent that such action or omission resulted from your instructions.
- 15.9 We may also use your personal data and the information provided about your educational institutions (if appropriate) in accordance with our privacy policy which can be found at [www.SpaceKraft.co.uk](http://www.SpaceKraft.co.uk). By placing the Order, you agree to the provisions of SpaceKraft's privacy policy.

## **16. ANTI-BRIBERY**

You shall ensure that you and, if applicable, all of your employees, agents, sub-contractors and any other party performing your obligations or exercising your rights under or in connection with these Conditions and/or any other agreement that you may have with us, complies at all times with all applicable anti-bribery and/or corruption laws, regulations and codes of conduct in all jurisdictions. You shall, whenever requested by us, provide evidence of the measures, steps and processes that you take to ensure compliance with the provisions of this clause and the relevant laws, regulations and codes of conduct.

## **17. DISPOSAL OF WASTE ELECTRICAL EQUIPMENT**

- 17.1 You are responsible under Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2013 (the "WEEE Regulations") for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any equipment supplied under the Order that has become waste electrical and electronic equipment ("WEEE"). SpaceKraft and you acknowledge that, for the purposes of Regulation 9, this clause 17 is an agreement stipulating other financing arrangements for the collection, treatment, recovery, recycling and environmentally sound disposal of WEEE.
- 17.2 You are responsible for any information recording or reporting obligations imposed by the WEEE Regulations. You shall indemnify and hold harmless SpaceKraft against any claims or legal proceedings that are brought or threatened against SpaceKraft by a third party which would not have been caused or made had you fulfilled your express or implied obligations under this clause or in connection with the WEEE Regulations. We will notify you of any such claims or proceedings and keep you informed as to the progress of such claims or proceedings.

## **18. MISCELLANEOUS**

- 18.1 We reserve the right to amend these Conditions from time to time without notice by updating the same on the Site.
- 18.2 Neither party shall be liable to the other for any delay in or failure to perform its obligations hereunder (other than a payment of money) provided that such a failure is due to causes beyond its reasonable control, including without limitation, strikes, lockouts or other industrial action by workers, employers, trade disputes, accidents on land or sea, government interference, war or hostilities, riot or civil commotion, earthquake, flood, fire or other natural physical disaster, Government action or legislation.
- 18.3 Failure by either party to exercise or delay in exercising any of these Conditions shall not constitute or be deemed to be a waiver of either party's rights hereunder nor prejudice our or your rights to take subsequent action.
- 18.4 Any notice required to be given under these Conditions shall be in writing and shall be sent to the address of the customer / reseller set out in the Order (for notices to be sent to you) or the registered office of SpaceKraft (for notices sent to us). Any notices sent to SpaceKraft via email will not be valid.
- 18.5 Nothing in these Conditions shall make either party the agent or partner of the other or give either party the power to bind the other.
- 18.6 Nothing in these Conditions shall confer on any third party any right or benefit under the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 18.7 You agree to maintain in confidence and not disclose, reproduce or copy any materials, documentation or specifications which are provided to you hereunder. You shall be responsible for ensuring that your employees, agents, sub-contractors and any other party performing your obligations or exercising your rights under or in connection with these Conditions and/or any other agreement that you may have with us are bound by the same obligations and that such obligations ensure beyond any termination of employment with you.
- 18.8 To meet your preferred installation timetable, we may need to use sub-contractors. All subcontractors engaged by SpaceKraft are fully capable of undertaking the scheduled work.
- 18.9 SpaceKraft will carry out all the work during our normal working hours, which are 8.00am to 5.00pm, Monday to Friday (excluding Bank Holidays) which includes travelling time from Shipley, West Yorkshire. If you want us to work outside of these hours, it may be necessary for SpaceKraft to make an additional charge which we will agree with you in advance.

## **19. ADDITIONAL TERMS FOR CONSUMERS**

In addition to clauses 1 – 18 and 21, if you are a Consumer, the following terms apply:

### **Delivery**

- 19.1 If we become aware that the expected date for delivery is likely to be more than thirty (30) days after you place the Order:
- 19.1.1 we will contact you to inform you accordingly; and
- 19.1.2 we will ask you if you would be willing to agree to a later delivery date.
- 19.2 If you do not agree to a later delivery date in accordance with clause 19.1.2 above, you shall be entitled to cancel the Order. For the avoidance of doubt and to avoid any Orders being unintentionally cancelled, you shall not be treated as having cancelled the Order under this clause 19.2 unless you confirm such cancellation to SpaceKraft in writing.

### **Limitation of Liability**

- 19.3 Subject to clause 19.4, if we fail to comply with these Conditions, we are responsible for loss or damage you suffer that is a foreseeable result of our breach of these Conditions or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of our breach or if it was contemplated by you and us at the time we entered into the contract relating to the relevant Order.
- 19.4 In accordance with clause 13.4, your sole remedy in circumstances where SpaceKraft damage your tangible property, is limited to SpaceKraft making good any unnecessary damage directly caused by any negligence on our part. We shall not in any circumstances be liable for any damage to finishings, both internally and externally.
- 19.5 You agree that we will not be liable for any loss caused by your failure to perform your obligations in relation to the Order.
- 19.6 Where digital content supplied by SpaceKraft is proven to have caused damage to your device or other digital content, SpaceKraft may choose to either repair the device or digital content, or offer you compensation. Any compensation shall: (a) be reasonable in all the circumstances; and (b) only be payable where the damage would not have occurred if SpaceKraft had exercised reasonable care and skill.
- 19.7 Where you are a Consumer, we only supply the Goods for domestic and private use. You agree not to use the Goods for any commercial, business or resale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 19.8 We do not in any way exclude or limit our liability for:
- 19.8.1 death or personal injury caused by our negligence;
  - 19.8.2 fraud or fraudulent misrepresentation;
  - 19.8.3 any breach of the terms of sections 9 – 17 of The Consumer Rights Act 2015;
  - 19.8.4 any breach of the terms of sections 34 – 37 and section 41 of The Consumer Rights Act 2015 (relating to digital content) where the Consumer has purchased the digital content. ; and
  - 19.8.5 any breach of the terms of sections 49 - 52 of The Consumer Rights Act 2015.

## **20. ADDITIONAL TERMS FOR BUSINESSES**

In addition to clauses 1 – 18 and 21, if you are a Business, the following terms apply:

### **Limitation of Liability**

- 20.1 Nothing in the Order excludes our liability for:
- 20.1.1 death or personal injury caused by our negligence;
  - 20.1.2 fraud or fraudulent misrepresentation;
  - 20.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
  - 20.1.4 defective products under Part I of the Consumer Protection Act 1987; or
  - 20.1.5 for any other matter in respect of which law prescribes that liability may not be excluded or limited.
- 20.2 We shall not in any circumstances be liable, whether in contract, tort (being a form of civil wrong) (including for negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent) or otherwise for:
- 20.2.1 loss of profits; or
  - 20.2.2 loss of business; or
  - 20.2.3 depletion of goodwill or similar losses; or
  - 20.2.4 loss of anticipated savings; or

20.2.5 loss of goods; or  
20.2.6 loss of use; or  
20.2.7 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

- 20.3 Subject to clause 20.1, our total liability to you in respect of all losses arising under or in connection with the Order, whether in contract, tort (including negligence), breach of statutory duty, including damage to tangible property, shall in no circumstances exceed the price paid by you for the Goods.
- 20.4 You agree that we will not be liable for any loss arising out of the provision of Goods or services by any company, organisation or person other than SpaceKraft or for any loss caused by your failure to perform your obligations in relation to the Order.

#### **Authority**

20.5 You confirm that you have authority to bind any business (including school / nursery / after school club) on whose behalf you Order any Goods.

#### **Entire Agreement**

- 20.6 These Conditions, together with any contract documents SpaceKraft provides you, constitute the entire agreement and understanding between the parties relating to the subject matter. These Conditions supersede and cancel all prior agreements, statements, representations, understandings, negotiations and discussions, whether oral or written, between the parties. Each of the parties acknowledges and agrees that in entering into any Order it has not relied on (or has been induced to enter into any Order by) any statement, representation, warranty or understanding made prior to these Conditions. Nothing in this clause excludes any liability for fraudulent misrepresentation.

#### **21. GOVERNING LAW AND JURISDICTION**

These Conditions shall be governed by and construed in all respects in accordance with the laws of England and Wales and shall be subject to the non-exclusive jurisdiction of the English Courts.