



# General Terms and Conditions of Business



## 1. DEFINITIONS

**Purchaser** - means the person which buys or agrees to buy the Goods from the Seller and is identified in detail in the Account Request Form/Order Form;

**Conditions** - means the terms and conditions of business set out in this document and any special terms and conditions agreed in writing by the Seller;

**Contract** - means a contract between the Seller and the Purchaser for the sale and purchase of Goods in accordance with these Conditions;

**Delivery Date** - means the date specified by the Seller when the Goods are to be delivered, or the date on which delivery takes place, whichever is later;

**Delivery Destination** - means the location specified in a Contract for the delivery of the Goods ordered by the Purchaser under that Contract;

**Goods** - means the products which the Purchaser agrees to purchase from the Seller;

**Seller** - means Rapidrop Europe Limited, registered in Ireland under number 589928, with registered address at Harcourt Centre, Block 3, Harcourt Road, Dublin 2.

## 2. CONDITIONS APPLICABLE

- 2.1. These Conditions shall apply to all Contracts to the exclusion of all other terms and conditions including any terms or conditions which the Purchaser may purport to apply under any purchase order, confirmation of order, or similar document.
- 2.2. All orders for Goods shall be deemed to be an offer by the Purchaser to purchase Goods pursuant to these Conditions.
- 2.3. Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless expressly agreed in writing by the Seller. The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract.
- 2.4. Quotations issued by the Seller do not constitute an offer by the Seller to supply the Goods referred to therein.

## 3. DELIVERY

- 3.1. Delivery shall take place by such method as the Seller may in its absolute discretion decide, to the Delivery Destination specified by the Purchaser, on or as close to the Delivery Date as is reasonably practicable in all the circumstances. For the avoidance of doubt, the Delivery Date is approximate only, and unless otherwise expressly agreed in writing by the Seller, time is not of the essence for delivery.
- 3.2. Costs of packaging and delivery shall be included in the price of the Goods, unless otherwise stated in the sales invoice.
- 3.3. No delay in the delivery of the Goods shall affect the price of the Goods or entitle the Purchaser to reject any delivery or any further instalment or part of the order or any other order from the Purchaser or to repudiate the Contract or the order.
- 3.4. If, for any reason, the Purchaser fails to accept delivery of any of the Goods when they are ready for delivery, or the Seller is unable to deliver the Goods on time because the Purchaser has not provided appropriate instructions, documents, licences or authorisations, the Seller may store the Goods until delivery, whereupon the Purchaser shall be liable for all related costs and expenses (including, without limitation, storage and insurance). This provision is without prejudice to any of the Seller's rights in relation to a failure by the Purchaser to take delivery of the Goods or pay for them in accordance with the terms of the Contract.
- 3.5. Subject to the other provisions of these Conditions the Seller shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by a delay in the delivery of the Goods (even if caused by the Seller's negligence), nor shall any delay entitle the Purchaser to terminate or rescind the Contract unless such delay exceeds sixty (60) days.
- 3.6. The seller may deliver by instalments in such quantities as it may reasonably decide; such instalments shall be separate obligations and no breach in respect of one or more of them shall entitle the Buyer to cancel any subsequent instalments or repudiate this contract as a whole.

## 4. CHANGES IN SPECIFICATION

The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any statutory requirements or where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

## 5. RISK AND TITLE

- 5.1. Risk in the Goods shall pass to the Purchaser on delivery of possession.
- 5.2. Title to the Goods shall not pass to the Purchaser until such time as the Seller has received in cash or other cleared funds full payment of the price of the Goods and all other sums due and owing by the Purchaser to the Seller at the time when the price becomes due.



- 5.3. Until such time as title in the Goods passes to the Purchaser, the Purchaser shall hold the Goods as the fiduciary agent and bailee of the Seller, and shall keep the Goods separate from those of the Purchaser and third parties, and shall keep the Goods properly stored, protected and insured against all normal risks, to the reasonable satisfaction of the Seller and identified as the Seller's property and shall not destroy, deface or obscure any identifying mark or packaging on or related to the Goods.
- 5.4. In the event of the Purchaser purporting to sell the Goods to a third party before full payment has been made to the Seller any such proceeds of sale shall be received and held in a separate account by the Purchaser as the Seller's agent.
- 5.5. The Seller will have the right to maintain an action against the Purchaser for the price of the Goods notwithstanding that title in the Goods has not passed.
- 5.6. Until such time as title in the Goods passes to the Purchaser (and provided that the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Purchaser to deliver the Goods back to the Seller, and if the Purchaser fails to do so forthwith, the Seller or its agents shall be entitled to enter upon any premises of the Purchaser or any third party where the Goods are stored or reasonably thought to be stored and repossess the Goods.
- 5.7. The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Purchaser does so all monies owing by the Purchaser to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## 6. PRICE

- 6.1. The price shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of the order.
- 6.2. The Seller reserves the right, by giving notice to the Purchaser at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor which is beyond the control of the Seller (such as without limitation any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods as requested by the Purchaser, or any delay, caused by the instruction of the Purchaser or failure by the Purchaser to give the Seller adequate information or instructions.
- 6.3. The price is exclusive of value added tax (or any similar tax) or any tax or duty relating to manufacture, transport, export, import, sale or delivery of the Goods which shall be due at the rate ruling on the date of the Seller's invoice.
- 6.4. All prices are quoted in Euro unless otherwise specified, and all payments must be made in Euro unless otherwise agreed in writing by the Seller.

## 7. PAYMENT

- 7.1. Unless otherwise agreed in writing by the Seller, payment of the price, VAT and any other tax, duty, insurance, storage or delivery charges shall be due at or before the end of the month following the month in which the date of the invoice falls. The Seller shall be entitled to invoice the Purchaser on, or at any time after, the delivery of the Goods unless the Purchaser wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Purchaser for the price at any time after the Seller has tendered or attempted delivery of the Goods.
- 7.2. The Purchaser shall not be entitled to withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off or counterclaim which the Purchaser may have or allege to have or for any reason whatsoever.
- 7.3. In the event that the Purchaser fails to make payment of any invoice before its due date for payment then the Seller shall be entitled to (without limitation):
  - 7.3.1. Charge interest on such invoice from the date of the invoice until the date of payment of the invoice at a rate of 8% above the base rate from time to time in force at the European Central Bank and such interest shall accrue at such rate after as well as before judgement;
  - 7.3.2. Suspend or cancel deliveries of any Goods due to the Purchaser;
  - 7.3.3. Suspend or cancel any discounts or rebates given to the Purchaser for this or any other orders;
  - 7.3.4. Appropriate any payment made by the Purchaser to such of the Goods (or any other Goods supplied under any other Contract with the Purchaser) as the Seller may in its sole discretion think fit;
- 7.4. For the avoidance of doubt, the rights and remedies of the Seller set forth hereto are cumulative, not exclusive, and the exercise of one thereof shall not deprive the Seller of the right to exercise others.
- 7.5. The Seller shall be entitled to exercise the remedies in this Condition 7 notwithstanding that risk and/or title to the Goods may not have passed

to the Purchaser.

7.6. Payment shall be deemed to be made when cash to the full amount owing has been handed to the Seller or a cheque to the full amount owing has been credited to the Seller's bank account and cleared by the Purchaser.

## 8. INSOLVENCY OF PURCHASER

8.1. This Condition applies if:

8.1.1. The Purchaser calls a meeting or makes any voluntary arrangement or composition with its creditors or (being an individual or sole-trader) becomes bankrupt or (being a company) goes into voluntary liquidation (other than for the purposes of amalgamation or reconstruction) or becomes unable to pay its debts; or

8.1.2. A receiver or examiner is appointed over any of the assets or the undertaking of the Purchaser; or

8.1.3. A winding up order is made against the Purchaser; or

8.1.4. The Purchaser ceases or threatens to cease to carry on business; or

8.1.5. The Seller reasonably believes that any of the events mentioned above or events or acts analogous thereto in any jurisdiction are about to occur in relation to the Purchaser and notifies the Purchaser accordingly.

8.2. If this Condition applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled at its sole discretion and at any time to:

8.2.1. cancel any order or suspend any further deliveries under any order without any liability to the Purchaser; or

8.2.2. if the Goods have been delivered but not paid for:

(i) be reimbursed the full price immediately and notwithstanding any previous agreement or arrangement to the contrary; or

(ii) require the Purchaser to return the Goods to the Seller (provided the Goods are still in existence and have not been sold by the Purchaser);

And if the Purchaser fails to do so forthwith to enter upon any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.

8.3. Any Goods repossessed by the Seller may be resold on such terms as the Seller may in its absolute discretion determine and the Purchaser shall remain liable to the Seller for the difference between the net proceeds of such resale and all outstanding sums due to the Seller in respect of the Goods and for all costs and expenses incurred by the Seller in repossessing, storing, insuring and re-selling the same.

## 9. WARRANTY

9.1. Subject to the provisions of Condition 10 below, the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defect in both materials and workmanship for a period of twenty-four (24) months from the Delivery Date.

9.2. Except where the Purchaser is dealing as a consumer (within the meaning of section 3(1) of the Sale of Goods and Supply of Services Act 1980 and the Consumer Protection Act 2007 as amended from time to time), all other warranties, conditions or terms relating to the fitness for purpose, quality or condition of the Goods, whether express or implied by statute, common law or otherwise, are excluded to the fullest extent permitted by law.

## 10. LIMITATION OF LIABILITY

10.1. The above warranty is given by the Seller subject to the following conditions;

10.1.1. The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Purchaser.

10.1.2. The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;

10.1.3. The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the full price for the Goods has not been paid by the due date for payment;

10.1.4. The above warranty does not extend to parts, material or equipment not manufactured by the Seller, in respect of which the Purchaser shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.

10.2. Except in respect of death and personal injury caused by the Seller's negligence, the Seller shall not be liable to the Purchaser by any reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, for any indirect special or



consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Purchaser and the entire liability of the Seller under or in connection with any order shall not exceed the cost of the Goods except as expressly provided in these conditions.

- 10.3. No liability will be accepted by the Seller for any Goods which become defective as a result of any process or negligence of storage procedures after the Goods have been delivered. It is a condition of the Seller's quality control procedures that full traceability is maintained and therefore any quality claim must involve the Seller's Goods being retained in its original packaging or the batch labels being quoted.
- 10.4. The Seller will not be liable for damage in transit or shortage in delivery unless notice is given by the Purchaser to the Seller within 3 days after delivery or, where the claim is for non-delivery, within 14 days following receipt of the Seller's invoice.
- 10.5. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller within 3 months of delivery the Seller shall be entitled to, at the Seller's sole discretion: (i) replace the Goods (or the part in question free of charge); or refund to the Purchaser the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Purchaser.
- 10.6. Notwithstanding anything else to the contrary in these Conditions and for the avoidance of doubt, the Purchaser shall not be entitled to reject the Goods and shall be bound to pay the price as if the Goods have been delivered in accordance with the Contract and the Seller shall not be under any obligation to fix or replace the Goods, or refund the price of such Goods unless (i) the Seller was notified within the period set out in Condition 10.5 above of the defect in the quality or condition of the Goods or their failure to meet their specification, and (ii) it had the opportunity to inspect the Goods within a reasonable time thereafter.

## 11. INDEMNITY

The Purchaser shall indemnify the Seller against any liability howsoever arising from damage caused to the Goods, to the Seller's property, personnel or equipment or for any damage suffered by any third party from the unloading of Goods at the Purchaser's premises save to the extent such damage is due to the negligence of the Seller or its employees.

## 12. FORCE MAJEURE

12.1. Notwithstanding anything to the contrary provided for in Condition 10 and Condition 3.5 above, the Seller shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:

- 12.1.1. Act of God, explosion, flood, tempest, fire or accident;
- 12.1.2. War or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 12.1.3. Acts, restrictions, byelaws, prohibitions or measures of any kind on the part of any government, parliamentary or local authority.
- 12.1.4. Import or export regulations or embargoes;
- 12.1.5. Strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- 12.1.6. Difficulties in obtaining raw materials, labour, fuel, parts of machinery;
- 12.1.7. Power failure or breakdown in machinery.

## 13. INTELLECTUAL PROPERTY RIGHTS

- 13.1. As between the Purchaser and the Seller, all intellectual property rights and all other rights in the Goods and the Seller's website shall be owned by the Seller, the Seller's agents, subcontractors, consultants and employees as appropriate.
- 13.2. The Purchaser shall indemnify the Seller on a full indemnity basis against any and all actions, costs (including, without limitation, the costs of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement of any patent, registered design, copyright, trademark or other industrial or intellectual property rights resulting from compliance by the Seller with the Purchaser's specific instructions relating to the use of the Purchaser's intellectual property rights or acting upon specifications, drawings or patterns supplied by the Purchaser.

## 14. DATA PROTECTION

The Seller complies with all its obligations under the applicable data protection law. The Purchaser acknowledges and agrees that details of the Purchaser's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on

the Seller's behalf in connection with the Goods.

## 15. TERMINATION AND CANCELLATION

- 15.1. Unless otherwise agreed by the Seller and the Purchaser in writing, no Contract may be terminated by the Purchaser except by mutual agreement in writing.
- 15.2. Termination of a Contract is subject to the following conditions: (i) the Purchaser will pay for all undelivered Goods which are completely manufactured and allocable to Purchaser at the time of Seller's receipt of notice of termination; and (ii) Purchaser will pay all costs, direct and indirect, which have been incurred by the Seller regarding Goods which have not been completely manufactured at the time of Seller's receipt of notice of termination, plus a pro rata portion of normal profit on the Contract.
- 15.3. The Seller may cancel any Contract at any time before the Goods are delivered by giving written notice. Upon giving such notice the Seller shall promptly repay to the Purchaser any sums paid in respect of the Goods. Without prejudice to the limitation of Condition 10 above, the Seller shall not be liable for any loss or damage whatsoever arising from any cancellation in accordance with this Condition 15.3

## 16. GENERAL

- 16.1. These Conditions shall be governed by and construed in accordance with Irish law and the parties hereby submit to the non-exclusive jurisdiction of the Irish Courts.
- 16.2. The Seller reserves the right to sub-contract the whole or any part of the Contract.
- 16.3. Any provision of these Conditions or any Contract which is, or may be, void or unenforceable shall, to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision the Contract. If any court or competent authority finds any provision of these Conditions unenforceable, the parties agree that the remaining provisions shall be valid, effective and enforceable.
- 16.4. No forbearance or indulgence by the Seller shown or granted to the Purchaser whether in respect of these Conditions or otherwise shall in any way affect or prejudice the rights of the Seller against the Purchaser or be regarded as any waiver of any of these Conditions.
- 16.5. Any notice under or in connection with these Conditions or any Contract shall be in writing and shall be served by registered post or by hand on the party to the address of the party set out in the Account Request Form or at such other address as may subsequently be notified by one party to the other. In the absence of any evidence of earlier receipt any notice shall be deemed to have been received: (i) if delivered by hand when left at the address for service; or (ii) if sent by registered post, on the second day after posting.