

Terms & Conditions of Sale

1. These Conditions

In these conditions the word "ADT" means ADT Systems Limited, who trade as Applied Data Technologies, the words "the customer" shall mean the person, firm or company purchasing or agreeing to purchase goods or services from ADT Systems Limited, the words "these conditions" shall mean the terms and conditions of sale set out herein, the word "goods" shall mean the subject matter of the contract including (but not limited to) all equipment, spare parts or other goods, the word "services" shall mean repairs or support services provided to the customer by ADT and the word "order" shall mean a purchase order in respect of goods or services issued by the customer to ADT by official purchase order, letter, email or facsimile communication together with all documents referred to in it.

ADT's quotations are not binding on the customer and a contract ("the contract") will only come into being upon acceptance by ADT of the order and the following conditions shall be deemed to be incorporated within the contract.

No cancellation of an order by the customer shall be valid unless made in writing and accepted in writing by ADT.

The contract will be subject to these conditions. All terms and conditions appearing or referred to in the order or otherwise stipulated by the customer shall have no effect.

2. The Goods and Services

Subject to the warranty contained in clause 6.1, all descriptions, drawings, and particulars relating to the goods or services in any catalogues, leaflets, brochures, web sites or other documents are for illustrative purposes only and do not form part of the agreement between ADT and the customer. All representations as to the performance of the goods are based on information supplied by the manufacturer or their agents of the goods and relate to their performance in normal conditions when used correctly. Unless otherwise expressly agreed, goods supplied will be in accordance with manufacturer's normal designs and specifications current at the date of manufacture or delivery. The supply by ADT of goods or services differing from any contractual or pre-contractual specifications or descriptions shall not be in breach of the agreement between ADT and the customer insofar as the goods or services are of approximately equivalent performance to the goods or services referred to in the specifications or descriptions.

3. Delivery and Risk

The time for delivery of goods and the performance of the services is not of the essence. Dates agreed for delivery or performance are estimates only and the failure by ADT to comply with them shall not be in breach of these conditions.

Unless the contract otherwise stipulates, risk in the goods passes to the customer when the goods are delivered to the customer either at ADT's premises or such other delivery point as agreed between the parties. ADT accepts no responsibility for any damage or loss in transit. Claims for damage or loss in transit should be made on the carrier and any conditions imposed by the carrier in relation to claims or damage or loss in transit should be complied with.

Where the customer has arranged for collection of goods, risk will pass on the date that ADT has notified the customer that goods are ready for collection.

The customer is required to inspect the goods on receipt and to notify ADT in writing within 24 hours of any complaints or defects.

4. Property in the Goods

Notwithstanding delivery and passing of risk, title to the goods shall remain with ADT until payment in cleared funds has been received by ADT in full for those goods;

4.11 for any other goods supplied to the customer by ADT and;

4.12 of all monies due from the customer to ADT on any account, and the customer acknowledges that until such payment is made in full it is in possession of the goods solely as fiduciary agent and bailee of ADT.

4.13 Until payment in cleared funds has been received by ADT in full, the customer is licensed by ADT to use or to agree to sell the goods provided that the entire proceeds of any sale of such goods including insurance proceeds are held on trust for ADT and are not mixed with other monies or paid in to an overdrawn bank account and shall at all times be identifiable as ADT's money.

4.14 Any resale by the customer of goods in which property has not passed to the customer shall (as between ADT and the customer only) be made by the customer as agent for ADT.

4.15 Until title to the goods passes to the customer under clause 4.1 the goods shall be kept separate and distinct from all other property of the customer and of third parties adequately insured and in good condition and shall be stored in such a way as to be clearly identifiable as belonging to ADT and the customer will not cause or permit or suffer any labels, badges, serial numbers or other means of identification of the goods to be removed or obscured.

4.16 at any time before title to the goods passes to the customer (whether or not payment to ADT is then overdue or the customer is otherwise in breach of any obligation to ADT), ADT may (without prejudice to any of its rights):

4.17 or the purpose of recovering all or any part of its goods enter upon the premises where they are stored or where they are reasonably thought to be stored (or authorise others to do so) and may repossess the same which the customer hereby authorises;

4.18 require delivery up to it of all or any part of the goods.

5. Price and Payment

Unless otherwise agreed, the price payable for the goods and services shall be shown in the current price list, or as quoted of ADT at the date of delivery of the goods or the date of performance of the services.

In other cases the price stated in the contract is based on the cost to ADT of raw materials, fuel and power, transport and labour and all other costs at the date of acceptance of the order or quotation (whichever is earlier). If at the date of despatch of the goods from ADT premises, or if at the date of carrying out the work, in either case if there has been an increase in all or any of such costs, the price payable for the goods or services may at the request of ADT be increased accordingly.

The price for the goods or services shall be, unless otherwise stated, exclusive of value added tax at the prevailing rate at the time of delivery and the cost of packaging and carriage which will be charged at ADT's standard rates.

Where the price for the goods or services is varied in accordance with clause 5.2 the price as varied shall be binding on both parties and shall not give either party any option of cancellation.

Prices quoted are net and are in sterling unless otherwise agreed. All payments are to be made to ADT's address as stated on the invoice unless agreed otherwise.

All payments shall be made without deduction or set-off.

Where any contract provides for goods or services to be delivered or performed by installments which are separately paid for, such contract shall not be severable and failure by the customer to pay for or accept delivery or performance of any installment by the due date shall entitle ADT at its option to treat the whole agreement with the customer repudiated.

Unless otherwise expressly agreed, payment shall be made in accordance with clause 5.5 upon receipt of invoice which shall be sent to the customer upon despatch of the goods or performance of the services. If the customer does not take delivery when requested payment shall be made 7 days after ADT has requested the customer to take delivery. Where the customer fails to take delivery of the goods ADT may arrange storage of the goods at the customer's risk and the customer shall be liable to ADT for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any of the right which ADT in respect of the customer's failure to take delivery of the goods or pay for them or the services in accordance with the contract.

Time for payment is of the essence and if payment is not received within 14 days from the date of invoice ADT may require the customer to pay interest at 5% above the arithmetic average for each day of the published base rate of Lloyds TSB Bank Plc. ADT also reserves the right to suspend further deliveries and work on the same order and on any other order from the customer without prejudice to any other right ADT may have.

If payment should not be received within 30 days from the date of the invoice, ADT will be entitled to charge (in addition to interest and any legal costs ordered by the court and without prejudice to any other rights or remedies available to ADT) the sum of £85.00 + VAT by way of liquidated damages and as a contribution to the administrative costs incurred by ADT in taking steps to secure payment.

6. Warranty and Liability

ADT warrants that it will (where the goods are the subject of a guarantee from the manufacturer which is in force at the time of the notification referred to below) at its option credit the account of the customer (if any) or remedy free of charge by repair or replacement, subject to the terms and conditions of the manufacturer's warranty, any goods which are by ADT as being defective or not in accordance with the contract or any express description or representation given by or on behalf of ADT in respect of the goods, save that this warranty shall not apply where the defect or fault is attributable to misuse of the goods by the customer or defective materials supplied by third parties where the customer's only remedy will be against that third party, provided that the customer notifies ADT promptly of such a defect and where the customer arranges for the prompt return to ADT of the defective goods at the customer's risk and expense.

The customer's remedies in respect of any express warranty or any condition or any warranty implied by law or any other claim in respect of the goods or services or any workmanship in relation to them (whether or not involving negligence on the part of ADT) shall in all cases be limited to repair, replacement or refund of the purchase price as aforesaid and any condition or warranty implied by law shall cease to apply after the expiry of the relevant warranty period.

Except in respect of death or personal injury caused by ADT's negligence or the negligence of any of its employees or damage caused by a defective product within the meaning of the consumer protection act 1987 ADT shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities, whether direct, indirect or consequential (including but not limited to economic loss or loss of profits) and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law. ADT shall not be liable for any loss of database information, loss of business resulting from network failure, or in the case of equipment possessing a memory storage facility or in the case of data stored on magnetic media or other storage facilities or any other consequential damage resulting from equipment failure howsoever arising.

A claim in respect of any defect or failure to comply with the specification or in respect of any delivery or installment of any order or any part of them shall not entitle the customer to cancel or refuse delivery or performance or payment for any other order, delivery or installment.

Any claim against ADT whether in contract or tort shall be limited to an amount by way of liquidated damages equal to the invoice value of the goods in respect of which the claim is made.

7. **Termination**

If any payment due to ADT is overdue by 60 days from the date of invoice or if the customer enters into a deed of arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the court shall make an order that the customer shall be wound up (otherwise than for the purposes of amalgamation or reconstruction or if a receiver (including an administrative receiver) shall be appointed of any of the assets or undertaking of the customer or if the customer suffers the appointment or presentation of a petition for the appointment of an administrator or if circumstances shall arise which enable the court or a creditor to make a winding-up order or if the customer takes or suffers any similar action in consequence of debt or if the financial responsibility of the customer shall, in the opinion of ADT become impaired or if the customer shall commit any breach of any part of the contract ADT may without prejudice to its rights and remedies under these conditions stop all goods in transit and suspend further deliveries or performance of the services and by notice to the customer may terminate the contract immediately.

8. **Force Majeure**

ADT shall not be liable to the customer any delay in delivery or performance or failure to deliver or performance obligations if the duration of the delay is not substantial, or if the delay or failure is due to an act of God, fire, inclement or exceptional weather conditions, industrial action (whether at ADT's premises or elsewhere), hostilities, shortage of labour, materials, power or other supplies, contractors, governmental order or intervention (whether or not having the force of law) or any other cause whatsoever beyond ADT's control or of an unexpected or exceptional nature, and in such event ADT may elect by written notice to cancel any agreement with the customer or elect that the time for performance shall be extended until such time as ADT can reasonably effect performance.

No delay shall entitle the customer to reject any delivery or performance or any other installment or part of the order or any other order from the customer or to repudiate the contract or the order.

9. **Waiver**

If the customer shall be in breach of any of these conditions then the failure by ADT to require the customer to rectify the same shall not create any assumption that such a breach has been waived by ADT.

10. **Intellectual Property**

The customer shall indemnify ADT against all actions, costs (including the costs of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement of any patent, registered design, unregistered design, design right, copyright trademark or any other industrial or intellectual property rights resulting from compliance by ADT with the customers instructions, whether express or implied.