

LEVERSTOCK LIMITED - TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

- 1.1 The following definitions shall apply to these Terms and Conditions and to any contract incorporating the same:
- 'Leverstock' means Leverstock Limited.
 - 'The Client' means any person, firm or company entering into a contract for the purchase from Leverstock of the Goods.
 - 'The Equipment' means the computer hardware, associated items and peripherals supplied by Leverstock to the Client.
 - 'The Software' means the computer software supplied by Leverstock to the Client.
 - 'The Goods' means the Equipment and Software and any services provided by Leverstock, subject matter of the relevant order or contract for sale.
 - 'Training Courses' means the training supplied by Leverstock to the Client.
 - 'Finance Company' means any person firm or company that is able to assist the Client to finance the purchase of Goods.
 - 'Finance Agreement' means any agreement or agreements which the Client enters into with a Finance Company for the purpose of financing the purchase of the Goods.
 - 'Credit Approval' means any approval or clearance which is required by a Finance Company prior to entering into a Finance Agreement.
 - 'Note of Satisfaction' means any confirmation required by a Finance Company in respect of the Goods including confirmation that the Goods have been delivered and have been accepted by the Client.

2. APPLICATION OF CONDITIONS

- 2.1 These are the Standard Terms and Conditions of Leverstock whose office is at First Floor, Unit 2, Avebury Court, Mark Road, Hemel Hempstead, Herts HP2 7TA which shall govern all contracts for the sale and supply of Goods by Leverstock to the Client. These Terms and Conditions shall apply in place of and prevail over any terms or conditions contained or referred to in the Client's order or in correspondence or elsewhere or implied by trade, custom, practice or course of dealing unless specifically agreed to in writing by a director of Leverstock, and any purported provisions to the contrary are hereby excluded or extinguished.
- 2.2 These Standard Terms and Conditions are dated 10 November 2006 and supersede all previously issued terms and conditions.
- 2.3 Any quotation or other communication sent by Leverstock to the Client shall be deemed to be an invitation to treat only. The Client's purchase orders shall constitute offers to buy on these terms and conditions only and the contract between Leverstock and the Client shall come into effect upon Leverstock's acceptance, whether upon Leverstock's formal acknowledgement of order or otherwise of the Client's order.
- 2.4 Any written order or other communication of any kind from the Client containing any terms and/or conditions inconsistent with these Terms and Conditions shall not be accepted by Leverstock to the extent of such inconsistency and such inconsistent terms and/or conditions shall be deemed to be severable and shall be severed from the order or communication without otherwise affecting the validity thereof and any subsequent acceptance on the Terms and Conditions shall not constitute a counter offer. Acceptance of the Goods by the Client shall constitute acceptance by it of these Terms and Conditions.
- 2.5 No employee, servant or agent of Leverstock has authority to vary these Terms and Conditions orally and no variation of these Terms and Conditions shall be effective or binding on Leverstock unless made in writing and signed by a director of Leverstock.

3. FINANCING THE PURCHASE OF THE GOODS

- 3.1 This clause shall apply where the Client enters into a Finance Agreement for the purpose of paying Leverstock for the Goods. In such cases the Client
- Undertakes to comply with the terms of the Finance Agreement;
 - Undertakes to send a Note of Satisfaction to the Finance Company within seven days after delivery of the Goods or on entering the Finance Agreement (if this takes place later); and
 - Acknowledges that the fees payable under a Finance Agreement may increase or Credit Approval may be withdrawn, which may result in the Finance Company ceasing to make payments to Leverstock and in such cases the Client will remain liable to Leverstock for all outstanding payments of any Goods.

4. DELIVERY

- 4.1 Leverstock shall deliver or procure delivery of the Goods to the address specified in the Client's order. Unless expressly agreed in writing the price of the Goods excludes all costs of packing and delivery shall be charged to the Client in addition to the price of the Goods.
- 4.2 The Client shall examine the goods immediately upon receipt. Leverstock reserves the right to reject claims in respect of shortages or damage in transit or non delivery unless the same are submitted in writing to Leverstock within seven days after delivery of the Goods or in the case of non delivery seven days after the due date of delivery.
- 4.3 Leverstock will use all reasonable endeavours to effect delivery of the Goods by any delivery date requested by the Client in writing in any order but time of delivery shall not be of the essence of any contract and Leverstock shall not be liable for any loss or damage whatsoever arising directly or indirectly from any failure to effect delivery on or by such date or otherwise.
- 4.4 Leverstock reserve the right to suspend all deliveries to the Client and/or terminate any contract for the supply of Goods to the Client without liability in the event of any breach by the Client of these Terms and Conditions.
- 4.5 Leverstock are not responsible for the disposal of any packaging of goods delivered unless asked to do so for which a charge will be made by Leverstock.

5. PRICE AND PAYMENT

- 5.1 The invoice price of the Goods shall be the price specified in any quotation or acceptance of order and shall be exclusive of VAT or any other similar sales or purchase tax or customs duties payable or to be accounted for by Leverstock in relation to the sale and supply of the Goods to the Client, which shall be charged in addition to the rate in force at the date of Leverstock's invoice to the Client.
- 5.2 Unless explicitly stated differently by Leverstock in a Quotation or Order Acknowledgement, invoices shall be due and payable within 30 days of the date of Leverstock's invoice (the "Due Date"). Without prejudice to its other rights hereunder in connection with late payment Leverstock shall be entitled to charge interest on overdue accounts at a rate of 4% over base, such interest to accrue at a daily rate from the due date until payment.
- 5.3 Payment for any Training Course must be made in full 14 days prior to the start of the training.
- 5.4 Travel, hotel and other incidental expenses necessarily incurred by Leverstock in relation to supply of the Goods or Training Courses are rechargeable to the Client.

6. TITLE & RISK & RESERVATION OF TITLE

- 6.1 Subject to clauses 6.2 and 8 below, legal title in all materials and other items comprising the Goods (other than any software and associated documentation) delivered to the Client under any contract between Leverstock and the Client shall belong to the Client.
- 6.2 Until all payments due from the purchaser to Leverstock for the supply of the Goods have been received in full, legal title to such Goods shall remain with Leverstock during which time the Client shall hold the Goods in fiduciary capacity as bailee for Leverstock and
- the Client shall store the Goods in such a way that it can be clearly identified as the property of Leverstock and against the individual unpaid invoices of Leverstock in respect of the Goods;
 - Leverstock reserves the right to dispose of the Goods and may retake possession thereof at any time and for that purpose may by its servants or agents enter upon any land or premises occupied by the purchaser; and
 - Without prejudice to the foregoing sub clauses the Client shall be entitled to sell the Goods in the normal course of business provided that any monies so received shall be held separately in an account opened for such purpose and designated as being held on behalf of Leverstock to whom the Client shall have a fiduciary duty to account to the extent of its indebtedness. Such account shall not be permitted to be overdrawn and the monies therein shall not be charged by the Client to secure any liability of the Client.
- 6.3 Risk of damage to or loss of the Goods shall pass to the Client on delivery and the Client shall insure the Goods against any risk or damage accordingly.

7. CANCELLATION OF ORDERS

- 7.1 The Client shall be liable to pay, at the total discretion of Leverstock, any or all costs incurred by Leverstock in relation to the Client's order, including purchasing of the Goods by Leverstock.
- 7.2 Cancellation or credit will only be accepted by prior written agreement and will be subject to a charge at Leverstock's discretion. All Goods accepted by Leverstock for credit must be returned in saleable condition and in the original packaging complete with all accessories, manuals, etc. The risk in the Goods shall not revert to Leverstock until the Goods have been certified as safely received in proper condition by Leverstock. The Client is strongly recommended to insure such goods in transit to the full value.
- 7.3 If the Client wishes to cancel a Training Course it must do so in writing. If cancelled 30 days prior to the commencement date no fee shall be payable by the Client. Cancellation after the 30 day period will be subject to a cancellation fee as indicated in the table below;

Days before commencement	Percentage payable as a cancellation fee
30 days or more	Nil%
21 to 30 days	25%
14 to 21 days	35%
11 to 14 days	65%
less than 11 days	100%

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 The copyright and all other intellectual property rights in all Goods and other items delivered under any contract between Leverstock and the Client shall remain vested in Leverstock save insofar as the same comprise material provided by the Client.
- 8.2 Leverstock grants to the Client with effect from the Client's acceptance of any software written by Leverstock pursuant to these Terms and Conditions, a perpetual, non-exclusive and non-transferable licence to use and copy such software for its own internal business purposes but for no other purpose whatsoever. The Client shall not be entitled to sub-licence the use of the whole or any part of such software.
- 8.3 Any third party software (including any documentation to be supplied together with such software) delivered to the Client by Leverstock shall be subject to the relevant third party's standard licence terms.

9. SOFTWARE

- 9.1 The Client further undertakes if requested, or required by the terms of use of any software so to do, forthwith to enter into a separate licence agreement for the use of the Software and any associated documentation with Leverstock or the ultimate proprietor of the Software (the Proprietor) as appropriate on the Proprietor's standard terms and conditions from time to time and the Client further undertakes to comply with any restrictions placed upon it by the terms of such licence in relation to the use of the Software or the operating of the Equipment.
- 9.2 The Client hereby undertakes to indemnify Leverstock against all costs, damages and expenses incurred by Leverstock in respect of any claim proceedings or demand which may be brought against Leverstock or any third party arising out of any loss, damage, or liability whatsoever resulting whether directly or indirectly from any breach by the Client of the terms of licence referred to in the clause above.

10. LIABILITY

- 10.1 Leverstock shall not be liable to the Client
- for shortages in quantity delivered unless the Client notifies Leverstock for shortages in quantity delivered within seven working days of receipt of the Goods; and
 - for damage to or loss of the Goods or any part thereof in transit (where the Goods are carried by Leverstock's own transport or by a carrier on behalf of Leverstock) unless the Client shall notify Leverstock in writing within seven days of receipt of the Goods; and
 - for defects in the Goods caused by fair wear and tear, abnormal conditions of storage or use or act, neglect or default of the Client or of any third party; and
 - for other defects in the Goods or the media upon which Software is supplied, unless notified to Leverstock within seven days of receipt of the Goods, or where the defect would not be apparent on reasonable inspection within seven days of delivery.
- 10.2 Where liability is accepted by Leverstock under the above clause, Leverstock's only obligation shall be at its option to make good any shortage or non-delivery and/or as appropriate to replace or repair any Goods found to be damaged or defective and/or to refund the cost thereof to the Client, and in no event shall Leverstock be under any liability whatsoever and howsoever arising for any loss of use or loss of profit, interruption of business or any other indirect, special consequential losses of any type arising or alleged to have arisen out of any act or default of Leverstock in respect of its obligations hereunder.
- 10.3 Leverstock's aggregate liability to the Client hereunder or otherwise arising whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered Goods which give rise to such liability as determined by the price invoiced to the Client in respect of any occurrence or series of occurrences.
- 10.4 Subject to the clause 10.5 all conditions, warranties and representations, expressed or implied by statute or common law or otherwise in relation to the Goods are hereby excluded so far as is possible and Leverstock shall be under no liability to the Client for any loss or damage, direct or indirect resulting from defective material, faulty workmanship or otherwise howsoever arising and whether or not caused by the negligence of Leverstock, its employees or agents save that liability to the Client for death or personal injury of any person caused by the negligence of Leverstock shall not be excluded by this clause.
- 10.5 Nothing in these Terms and Conditions shall affect the statutory rights of a consumer.
- 10.6 Leverstock prices are determined on the basis of the limits of liability set out in this condition. The Client may by written notice to Leverstock request Leverstock to agree to a higher limit of liability provided insurance cover can be obtained therefor.
- 10.7 Leverstock warrants that the services to be provided to the Client will have and continue to have Year 2000 conformity as defined in the British Standards Institution Definition of Year 2000 Conformity Requirements PROVIDED THAT Leverstock shall not be responsible to the extent that any non-compliance is attributable to any Equipment or Software not manufactured by Leverstock.

11. RETURNS OF GOODS

- 11.1 No Goods will be accepted back without prior authority from Leverstock. Authority will be given to the Client in the form of a return reference number. To obtain a return reference number the Client shall contact Leverstock by telephone, which in the first instance will try to resolve the relevant query over the telephone and in the event of that being unsuccessful will issue a return reference number.
- 11.2 When returning Goods the Client shall ensure that the return reference number is clearly marked on the outside packaging.
- 11.3 Goods can only be returned in approved suppliers packaging. Failure to comply with this may void warranty.
- 11.4 Insurance of goods against any risk or damage shall remain the responsibility of the Client in the event of goods being returned to Leverstock.
- 11.5 Despatch of the Goods to Leverstock is the Client's responsibility.

12. TERMINATION OF INTERNET BASED SERVICES

Any Internet based service shall remain in force for the initial contract period and shall continue to be automatically renewed thereafter unless terminated by either party by giving at least 2 months notice in writing.

13. INSOLVENCY AND DEFAULT

If the Client makes any voluntary agreement with its creditors or becomes subject to an administration order or (being an individual or a firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction previously approved in writing by Leverstock), or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client, or the Client ceases, or threatens to cease, to carry on business, or Leverstock apprehends that any of the aforementioned events is about to occur in relation to the Client and notifies the Client accordingly or if the Client takes or suffers any similar or analogous action in consequences of debt or commits any breach of this or any other contract between Leverstock and the Client, Leverstock may without prejudice to any of its other rights, stop any Goods in transit and/or suspend further deliveries and/or determine the rights of the Client in respect of Title in the Goods, and/or by notice in writing to the Client determine the contract.

14. FORCE MAJEURE

The obligations of the parties under any contract incorporating these Terms and Conditions shall be suspended if it is hindered or prevented from fulfilling its obligations because of any delay or cause which is as a result of any act or cause beyond the reasonable control of that party including but without limitation labour disturbances (including strikes and lock-out, slowdowns, picketing or boycotts) acts of God, fire, storm explosion or governmental action.

15. ASSIGNMENT

Any contract between Leverstock and the Client is personal to the Client and shall not be capable of assignment by the Client to any third party without the prior written consent of Leverstock.

16. WAIVER

Failure by Leverstock to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right nor operate so as to ban the exercise or enforcement thereof at any time or times thereafter.

17. NOTICE

Any notice hereunder shall be deemed to have been duly given if delivered by hand or sent by prepaid first class post or facsimile to the party concerned at its last known address. Notices sent by first class post shall be deemed (in the absence of evidence of earlier receipt) to have been delivered forty eight hours after despatch and in proving the fact of dispatch it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and posted. Any notice sent by facsimile shall be deemed to have been delivered on the first working day following its dispatch.

18. ENTIRE AGREEMENT

These Terms and Conditions together with any Software licence required shall constitute the entire agreement between Leverstock and the Client. All previous terms and conditions of Leverstock are hereby superseded and excluded from any contract unless expressly agreed in writing by Leverstock.

19. GOVERNING LAW

The Terms and Conditions and any contract between Leverstock and the Client incorporating the same shall be governed by and construed exclusively in accordance with English law and the parties hereby agree to submit any dispute arising therefrom to the exclusive jurisdiction of the English courts.