

STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions ("**Terms**") apply to the sale of Phlux products ("**Products**") made in accordance with Quote between Phlux Technology Ltd, a company registered in England and Wales under company number 12908876, having its registered office Block 5 Level 2, Pennine Five Campus, 18 Hawley Street, Sheffield, S1 4WP, United Kingdom ("**we**" or "**us**" as the context may require) and you as a customer. ("**Customer**" or "**you**").

1 DEFINITIONS AND RULES OF INTERPRETATION

- 1.1 The definitions and rules of interpretation set out in this clause 1 apply to the Agreement. Words not defined in these Terms shall have the same meaning as set out in the Quote unless defined differently in these Terms.
- 1.2 "**Business Day**" means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business; "**Delivery**" means completion of delivery of Products, in accordance with clause 5.3; "**Quote**" means the standard Phlux form made available to you by us setting out our quote and specifications for the requested Products that references these Terms.
- 1.3 Clause headings shall not affect the interpretation of the Agreement.
- 1.4 In the Agreement, unless the context otherwise requires: words importing one gender shall be treated as importing any gender; words importing individuals shall be treated as importing corporations and vice versa; words importing the singular shall be treated as importing the plural and vice versa; a reference to a statute or other law shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of; and references to "include" and "including" (or any similar term), are not to be construed as implying any limitation.
- 1.5 Once our Quote has been accepted (in accordance with clause 3.3), the Quote and these Terms will constitute the entire agreement between you and us for the Products set out in the Quote (the "**Agreement**"). In the event of any conflict or inconsistency between the Quote and these Terms, these Terms shall prevail.

2 SUPPLY OF PRODUCTS

- 2.1 We will supply and you will purchase such quantities of Products as you may order under clause 3 (where relevant, at the purchase intervals specified in the relevant Quote), subject to and in accordance with this Agreement.
- 2.2 The Agreement is the only agreement between you and us. No other terms shall form part of the Agreement, including any terms that you seek to impose on us, any terms contained in or referred to in any purchase order issued by you or elsewhere, or any terms implied by trade, custom, practice or course of dealing.

3 ORDERING

- 3.1 To purchase Products, you must [send us a request for a Quote, setting out the requirements for the Products and provide us with all information we need or request to prepare a Quote. We may then generate a Quote.
- 3.2 Each Quote shall be a separate offer by you to purchase the Products on the terms set out in these Terms. Unless otherwise set out in the Quote, each Quote shall be valid for a period of 30 (thirty) days from its date, and we shall be free to accept (in accordance with Clause 3.3), withdraw or decline such Quote at our absolute discretion.
- 3.3 We may (but are not obliged to) accept your offer to purchase the Products by written acknowledgement of acceptance of your Quote and/or by commencing the supply of the Products in accordance with the Quote.
- 3.4 Unless otherwise stated in the Quote the minimum purchase commitment for each order shall be 5 (five) Products.
- 3.5 You are responsible for ensuring that the Quote is correct and accurately reflects your requirements. If you become aware of any error on the Quote, you must notify us immediately. We reserve the right to accept or refuse amendments and cancellations in our absolute discretion. Once Products have been despatched or made available for collection, Quotes cannot be amended or cancelled in any circumstances.

- 3.6 Any samples, drawings, descriptive matter, or advertising produced by us and any descriptions or illustrations contained in our catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Agreement or have any contractual force.
- 3.7 In respect of Recurring Orders, to the extent an estimated Delivery Date is stated on the relevant Quote, this will (subject to clause 5.4) be the estimated Delivery Date for the first instalment of Products, and the estimated Delivery Date for remaining instalments will (subject to clause 5.4) be on or around the intervals specified in the Quote or as otherwise reasonably notified to you.
- 3.8 In respect of Recurring Orders (either as to a single instalment or all remaining instalments), you may seek to vary the quantity of Products that we are to supply to you in any instalment by you giving us written notice not less than [30 (thirty)] days prior to the estimated Delivery Date.] We shall be entitled to accept or reject such variation by written notice to you at our absolute discretion. Unless otherwise stated by us in our acceptance notice, any such variation that is accepted shall take effect from the date of our acceptance notice.

4 WARRANTY

- 4.1 We will ensure that on Delivery and for the period of 12 (twelve) months after the Delivery Date ("**Warranty Period**"), the Products will (a) conform in all material respects to the Specification (if applicable); (b) be of satisfactory quality; and (c) be free from material defects in design, material and workmanship.
- 4.2 We will package and secure the Products in a manner to enable them to be Delivered in good condition.
- 4.3 We will use take all reasonable steps to comply with all applicable laws relating to the manufacture, production, packing, packaging, marking, storage, handling, and delivery of the Products.

5 DELIVERY

- 5.1 We will deliver the Products to the address specified in the Quote ("**Shipping Address**"). Where the Quote states that you will collect the Products from us (our premises) or our factory, you shall collect the Products from the Shipping Address on the Delivery Date. Where no Shipping Address is stated, delivery will be ex works (by the ICC's Incoterms in force at the date the Agreement) and we shall be under no obligation to give notice under section 32(3) of the Sales of Goods Act 1979.
- 5.2 Where the Quote states that the Products will be delivered to you, we will deliver the Products to the Shipping Address by the Delivery Date (subject always to clause 5.4).
- 5.3 Completion of delivery of the Products will be deemed to take place: a) on the date we place the Products at your disposal at the Shipping Address (in the case of clause 5.1) or b) on the date when they arrive at the Shipping Address (in the case of clause 5.2). All Products must be signed on receipt by you.
- 5.4 Any dates specified for delivery of the Products are intended to be estimates only and you agree that time shall not be of the essence. Delays in delivery will not entitle you to refuse to take delivery of the Products or claim damages. However, if there is a delay in delivery exceeding 60 (sixty) days beyond the original Estimated Delivery Date, you shall, as your sole remedy, be entitled to cancel the relevant order by giving us at least 7 (seven) days' notice of your intention to cancel.
- 5.5 Unless otherwise expressly agreed, Delivery Date shall be on a Business Day.
- 5.6 If you fail to collect the Products from us or fail to take delivery of the Products (as applicable), unless such failure is caused by our failure to comply with our obligations under the Agreement, (a) the Products shall be deemed to be delivered at 9.00am on the Delivery Date; (b) we will store the Products until Delivery

- takes place; and (c) we will charge you, and you will pay, for all related costs and expenses (including insurance) in respect of any such storage.
- 5.7 You shall not be entitled to reject a delivery on the grounds of under or over delivery. We shall make good for any under delivery or collect any over delivery.
- 5.8 If we notify you that we require you to return any packaging materials to us, such packaging materials shall remain our property and you will make them available for collection by us at any times we reasonably request. Returns of packaging materials shall be at our expense.
- 6 ACCEPTANCE AND DEFECTIVE PRODUCTS**
- 6.1 Subject to clause 6.3, you may reject any Products that do not comply with clause 4.1, provided that you provide notice of rejection to us within 5 (five) Business Days of Delivery Date (in the case of a defect that is apparent on normal visual inspection) or, during the Warranty Period, within a reasonable time (and in any event within 5 (five) Business Days) of the defect having become apparent (in the case of a latent defect).
- 6.2 If you fail to give notice of rejection in accordance with clause 6.1, you shall be deemed to have accepted the Products.
- 6.3 We will not be liable for a failure to comply with clause 4.1 in any of the following events: (a) you make any further use of the relevant Products after giving notice in accordance with clause 6.1; (b) the defect arises because you failed to follow our instructions for the storage, commissioning, installation, use and maintenance of the Products including any usage and/or handling instructions or guidance that we might make available from time to time; (c) the defect arises as a result of us following any drawing, design or Specification supplied by you; (d) you alter or repair the Products without our written consent; (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or (f) the Products differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.4 If you reject Products in accordance with clause 6.1 you shall be entitled (as your sole and exclusive remedy) to require that we: (a) repair or replace the rejected Products; or (b) repay the price of the rejected Products in full. Rejected Products must be returned to us in new condition and in the original packaging. These Terms shall apply to any repaired or replacement Products supplied by us.
- 7 TITLE AND RISK**
- 7.1 Risk in Products shall pass to you on Delivery.
- 7.2 Subject to clause 7.4, title to Products shall not pass to you until we receive payment in full (in cash or cleared funds) for the Products.
- 7.3 Until title to Products has passed to you, you shall: (a) store those Products separately from all other goods held by you so that they remain readily identifiable as our property; (b) not remove, deface or obscure any identifying mark or packaging on or relating to those Products; and (c) maintain those Products in satisfactory condition and keep them insured for their full price against all risks. On request you shall allow us to inspect those Products and the insurance policy.
- 7.4 Subject to clause 7.5, you may resell or use the Products in the ordinary course of your business (but not otherwise) before we receive payment for the Products. However, if you resell the Products before that time, you do so as principal and not as our agent and title to those Products shall pass from us to you immediately before the time at which resale by you occurs.
- 7.5 If, before title to Products passes to you, you become subject to any of the events listed in clause 13.1(c) to (f) inclusive, then, without limiting any other right or remedy we may have: (a) your right to resell the Products or use them in the ordinary course of your business ceases immediately; and (b) we may at any time (i) require you to deliver up all Products in your possession that have not been resold, or irrevocably incorporated into another product; and (ii) if you fail to do so promptly, enter any premises of yours or of any other person where the relevant Products are stored to recover them.
- 8 PRODUCT RECALL**
- 8.1 If you are the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Products from the market ("**Recall Notice**") you shall immediately notify us in writing enclosing a copy of the Recall Notice.
- 8.2 Unless required by law, you may not undertake any recall or withdrawal without our written permission and only then in strict compliance with our instructions about the process of implementing the withdrawal.
- 8.3 You will undertake a recall or withdrawal of the Products where reasonably required by us to do so.
- 9 PRICE OF PRODUCTS**
- 9.1 The price of the Products shall be as set out in the relevant Quote (the "**Price**").
- 9.2 We will provide all such evidence as you may reasonably request in order to verify invoices submitted by us.
- 9.3 In addition to the Price you shall pay the delivery, packaging, loading, unloading, carriage and insurance costs (if any) as set out in the Quote.
- 9.4 All amounts payable under this Agreement are (unless expressly stated otherwise) exclusive of any applicable VAT and any other taxes, duties, freight, levies or tariffs applicable to the Products themselves or to the sale of the Products. All such costs or charges will be paid by you in addition to the amount in question.
- 10 PAYMENT**
- 10.1 We shall be entitled to invoice you in respect of each Quote (or, in the case of Recurring Orders, in respect of each instalment of the Products) at any time in accordance with the Payment Terms, as set out in each Quote. If not stated, we may invoice after we have accepted your Quote pursuant to clause 3.3.
- 10.2 You shall pay undisputed invoices in full and in cleared funds within 30 (thirty) days of the date of the relevant invoice. Payment shall be made to the bank account nominated in writing by us.
- 10.3 If you dispute any invoice or other statement of monies due, you shall immediately notify us in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 10.2.
- 10.4 Where we require payment in advance of Delivery, we shall be under no obligation to deliver any Products if you have not paid for the Products in accordance with clause 10.2 or if there is a dispute in respect of the relevant invoice.
- 10.5 If you fail to pay any sum payable by the due date for payment under this Agreement, you shall pay interest on the overdue sum for the period from and including the due date of payment up to the date of actual payment (after as well as before judgment) in accordance with clause 10.6.
- 10.6 The interest referred to in clause 10.5 shall accrue from day to day and shall be paid on demand at the rate of 4% (four per cent) above the base rate from time to time of the Bank of England.
- 10.7 If you fail to pay any undisputed invoice due to us (whether under this Agreement or any other agreement between us) then we reserve the right to suspend deliveries due under this Agreement until such time as full payment in cash or cleared funds is made.
- 10.8 Without prejudice to any right to claim for interest, all payments payable to us by you under the Agreement shall become immediately due and payable: (a) on termination or expiry of the Agreement for any reason; or (b) if you become subject to any of the events listed in clause 13.1(c) to (f) inclusive.
- 10.9 If any tax and/or duty is payable on any amount payable to us under the Agreement, the amount payable shall be increased by such amount as ensures that, after payment of any tax and/or duty, there shall be left an amount equal to that which would otherwise be payable under the Agreement.
- 10.10 Unless otherwise agreed between you and us, in respect of Recurring Order, each such instalment of the Products (together with applicable delivery and packaging costs) will be invoiced by us and paid for by you separately.
- 11 LIABILITY**
- YOUR ATTENTION IS BROUGHT TO THIS CLAUSE**

- 11.1 Nothing in the Agreement shall exclude or limit a party's liability (or the other party's remedies) for: (a) death or personal injury arising from its negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability to the extent that such liability may not be excluded or limited as a matter of applicable law.
- 11.2 Subject to clause 11.1, our maximum aggregate liability in respect of each Quote (or, in respect of Recurring Order, in respect of each instalment of Products to be supplied under such Recurring Order) under or in relation to the Agreement (howsoever arising and including as a result of breach of contract, tort (including negligence) or statutory duty) shall not exceed 100% of the Price paid or payable by you in respect of the Products the subject of the individual Quote.
- 11.3 Subject to clause 11.1, we shall have no liability under or in relation to this Agreement (howsoever arising and including as a result of breach of contract, tort (including negligence) or statutory duty) for any: (a) direct or indirect: (i) loss of profits; (ii) loss of contracts; (iii) loss of business; (iv) loss of goodwill; (v) loss or corruption of data; or (b) indirect or consequential loss or damage, even if we have been advised of the possibility of such damages or losses (provided that nothing in this clause 11.3 shall be deemed to limit or exclude our liability for direct loss or damage).
- 11.4 Except as expressly stated in this Agreement, all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise are hereby excluded to the fullest extent permitted by law.
- 11.5 We shall not be liable for any delay or failure in the performance of our obligations caused by a failure of or delay by you to perform your obligations under the Agreement, or any compliance by us with instructions issued by you in relation to which we have raised a concern.
- 12 NOTICES**
- 12.1 Unless expressly provided otherwise, all notices and other communications to be given under this Agreement must be in writing and shall be delivered (a) by hand (including by courier); (b) pre-paid first class post or other next day delivery service; (c) pre-paid airmail; or (d) email (sent with a delivery receipt request), to the other party's address as set out in the Quote (or such other address as that party may notify to the other from time to time). Such notice shall be treated as having been given and received:
- (a) if delivered by hand, at the time of delivery;
 - (b) if sent by UK pre-paid first class post or other next day delivery service to a UK postal address, at 9.30 a.m. on the second clear day after the date of posting;
 - (c) if sent by pre-paid registered airmail, at 9.30 a.m. on the fifth clear day after the date of posting; and
 - (d) if sent by email, at the time recorded in the delivery receipt.
- 13 TERMINATION**
- 13.1 Either party may terminate the Agreement with immediate effect by giving written notice to the other party if: (a) the other party fails to pay any undisputed amount due under the Agreement on the due date for payment and remains in default not less than 14 (fourteen) days after being notified to make such payment; (b) the other party commits a material breach of any other term of the Agreement and that breach is irremediable or (if that breach is remediable) fails to remedy that breach within a period of 30 (thirty) days after being notified in writing to do so; (c) the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets; (d) the other party suspends or ceases, or threatens to suspend or cease, carrying on business; or (e) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation or (f) becomes subject to any analogous event within sub-clauses (c) to (e) inclusive in any other applicable jurisdiction.
- 14 EXPORT TERMS**
- 14.1 Where the Products are supplied for export from the United Kingdom, the provisions of this clause shall (unless otherwise agreed by you and us in writing) prevail over any other conflicting provisions of these Terms.
- 14.2 You shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of Delivery and for the payment of any taxes, including VAT and duties and for obtaining (at your own expense) any and all documents, certificates and licenses as necessary for the export and import of the Products, and you shall indemnify us in respect of any and all claims relating thereto.
- 14.3 To the extent permitted by law, we exclude all liability for any costs, losses or damages resulting from your use or attempt of use of the Products in countries other than the United Kingdom.
- 15 CONFIDENTIALITY**
- 15.1 Each party shall keep secret and confidential all information disclosed to it (whether in writing, verbally or otherwise) under or in connection with the Agreement which is of a confidential or proprietary nature. The receiving party shall not use, disclose, exploit, copy or modify such confidential information except for the purposes of the proper performance of the Agreement or with the prior written consent of the other party. Any such disclosure shall be made subject to obligations equivalent to those set out in the Agreement.
- 15.2 Notwithstanding clause 15.1, we may make announcements relating to the existence of the Agreement or its subject matter and make press releases or other publicity and enter into advertising and marketing in relation to the Agreement.
- 16 FORCE MAJEURE**
- 16.1 Neither party shall be liable to the extent that it is delayed in or prevented from performing its obligations under the Agreement to the extent due to any act or omission beyond its reasonable control (including without limitation) acts of any government, adverse weather, supply chain disruption, natural disaster, fire, explosion, epidemic, pandemic, labour dispute including strikes, war, terrorist activity or civil commotion.
- 17 ENTIRE AGREEMENT**
- 17.1 The Agreement contains all the terms agreed between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing.
- 17.2 Each party agrees that it has not relied upon, and will have no remedy in respect of, any representation, statement, assurance or warranty that is not expressly set out in the agreement and that the only cause of action available to it under the terms of the Agreement shall be for breach of contract.
- 18 GENERAL**
- 18.1 We shall be entitled to assign our rights and obligations set out in the Agreement. We may also subcontract or delegate any of our obligations under the Agreement. You shall not transfer your rights and/or obligations to third parties, whether in whole or in part, without our prior written consent.
- 18.2 Where either party has incurred any liability to the other, whether under the Agreement or otherwise, the party incurring such liability shall not be entitled to set off the amount of such liability against any sum or sums that would otherwise be due to it under the Agreement.
- 18.3 We do not anticipate any Personal Data to be processed in connection with this Agreement. However, to the extent that we process any Personal Data, we shall be a separate independent controller of any personal data that you provide to us for the purpose of performing our obligations and exercising our rights under the Agreement (e.g marketing). You shall ensure that you have any and all necessary consents and notices in place to enable the lawful transfer of such personal data to us for this purpose. Any Personal Data provided to us in connection with the Agreement will be processed in line with our privacy notice available on request. For the purpose of this clause, "Personal Data", "process" or "processed" have the meaning given to them in the Data Protection Act 2018.
- 18.4 The failure of either party to enforce or exercise at any time any term or any right under the Agreement does not constitute and

shall not be construed as a waiver of such term or right and shall in no way affect that party's later right to enforce or to exercise it.

- 18.5 If any term of the Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from the Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms provided that if any provision of the Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid.
- 18.6 Nothing in the Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.
- 18.7 The parties do not intend that any term of this Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 (or otherwise) by any person who is not a party to this Agreement.
- 18.8 No modification or variation of the Agreement shall be valid unless it is agreed in writing.
- 18.9 We may amend these Terms from time to time. However, the Agreement will be subject to the Terms in force at the time the Agreement is made, except to the extent that any change is required by law, regulation or governmental body (whether before or after the Agreement is made) or we notify you of any changes before the Agreement is made. The version of these Terms in force from time to time is available on our website at <https://phluxtechnology.com/terms-conditions>.
- 18.10 The Agreement and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales. The United Nations Convention on the International Sale of Goods (Vienna Convention) shall not apply.
- 18.11 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Agreement. Notwithstanding the foregoing, you irrevocably agree that we shall have the right to take, and shall not be prevented from taking, proceedings against you to settle any dispute or claim arising out of, or in connection with, the Agreement, its subject matter or formation (including non-contractual disputes or claims) in any other court of competent jurisdiction and that we may take such proceedings in any number of jurisdictions, whether concurrently or not, to the extent permitted by law.