

Terms and conditions of sale

1. **Definitions and Interpretation:**
 - 1.1. "Buyer" means the person or other entity who buys or agrees to buy the Goods from the Seller.
 - 1.2. "Conditions" means the terms and conditions of sale set out in this document (as varied from time to time in accordance with Condition 2.5) and any special terms and conditions agreed in writing between the Seller and the Buyer.
 - 1.3. "Contract" means any contract between the Seller and the Buyer for the sale and purchase of any Goods subject to these Conditions.
 - 1.4. "Delivery Date(s)" means the date(s) specified by the Seller as to when the Goods are to be delivered.
 - 1.5. "Goods" means any articles (or any part of them) which the Buyer agrees to buy from the Seller and the Seller agrees to source for and/or supply to the Buyer subject to these Conditions.
 - 1.6. "Price" means the price of the Goods as determined in accordance with Condition 3.
 - 1.7. "Seller", "us" and "we" means Rhodopst Components Limited (registered in England and Wales with company registration number 03329036), or such other company as may be named as the Seller in any Contract.
 - 1.8. "in writing", and any similar expression, includes facsimile transmission and electronic mail, but not text messages.
 - 1.9. All references are for ease of reference only and shall not affect the construction of these Conditions.
 - 1.10. In headings in these Conditions to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
2. **General:**
 - 2.1. All Goods are sourced and/or supplied by us subject to these Conditions (including any special terms and conditions agreed in writing between the Seller and the Buyer), which shall apply to all Contracts to the exclusion of all other terms or conditions which the Buyer may purport or seek to impose or incorporate under any purchase order, confirmation of order or similar document, or which may be implied by trade, custom, practice or course of dealing.
 - 2.2. The Buyer is responsible for ensuring that the terms of any order are complete and accurate. All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions and a Contract shall come into existence upon acceptance of any order by the Seller and/or delivery of the Goods to the Buyer, which shall be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.
 - 2.3. Any Contract shall constitute the entire agreement between the Buyer and the Seller and the Buyer 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. Any description of the Goods (including without limitation any drawings, descriptive matter, illustrations or advertising produced by the Seller or contained in its catalogues or brochures) is given by way of identification only and shall not form part of the Contract or have any contractual force.
 - 2.5. Any variation to these Conditions (including any special terms and conditions agreed between the Buyer and the Seller) shall not be binding unless agreed in writing and signed by a duly authorised representative of the Seller.
3. **Prices:**
 - 3.1. The Price shall be the Seller's quoted price unless otherwise specified in any Contract. Prices are quoted by the Seller on an ex works basis and are subject to change or withdrawal at any time before acceptance of the Buyer's order. Prices quoted shall apply to the stipulated quantities of Goods only and will not necessarily hold good for other quantities of Goods that may subsequently be ordered by the Buyer.
 - 3.2. All Prices are exclusive of packing, delivery and insurance charges as well as any applicable value added tax (VAT), which shall be payable by the Buyer at the rate in force on the date of the Seller's invoice.
4. **Variation of Prices:**

Orders are accepted by the Seller at the prices current at the time of acceptance provided that the Seller may by giving notice to the Buyer at any time before delivery of the Goods increase the Price of the Goods to reflect any increase in the cost to the Seller which is due to factors occurring after the making of the Contract which are beyond the reasonable control of the Seller including, without limitation, foreign exchange fluctuations, 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 which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
5. **Payment:**
 - 5.1. Payment of the Price and any applicable VAT and/or packing, delivery and insurance charges shall be due without set-off or deduction within 30 days of the date of the invoice unless otherwise specified by the Seller. The time for payment of the Price shall be of the essence of the Contract.
 - 5.2. If the Buyer fails to make any payment on the due date then, without limiting any other right or remedy available to the Seller, the Seller may:
 - 5.2.1. cancel the Contract or suspend any further deliveries to the Buyer;
 - 5.2.2. appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other Contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 5.2.3. charge the Buyer interest on the amount unpaid, at the rate of 4% above Barclays Bank Plc's base rate from time to time in force, which shall accrue (both before and after any judgment) from the date when payment becomes due from day to day until the date of payment.
 - 5.3. Notwithstanding Condition 5.2.3, the Seller may in the alternative claim interest at its discretion under the Late Payment of Commercial Debts (Interest) Act 1998.
6. **Order Cancellation and Returns:**
 - 6.1. Any Contract may be cancelled by the Buyer only with the prior written consent of the Seller (which it may withhold in its sole discretion) and subject to the Buyer paying all reasonable cancellation and restocking charges incurred by the Seller due to the Buyer's cancellation of the order. Seller may designate certain Products as non-cancellable, non-returnable ("NCNR").
 - 6.2. Returns will be permitted only with the prior written consent of the Seller (which it may withhold in its sole discretion) and provided that any Goods are returned at the Buyer's expense in original condition and in the original packaging. Return of part packs of Goods will not be accepted.
 - 6.3. The Seller may cancel any Contract at any time before the Goods are delivered by giving written notice to the Buyer. On giving such notice the Seller shall promptly repay to the Buyer any sums already paid by the Buyer in respect of the Price, but the Seller shall not be liable for any loss or damage arising from such cancellation.
7. **Delivery:**
 - 7.1. Except where the Buyer and the Seller otherwise agree, delivery of the Goods (unless by instalments) shall be made to the Buyer's address on the Delivery Date. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
 - 7.2. Any Delivery Dates quoted are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of any Contract unless previously agreed by the Seller in writing and no delivery shall be considered as overdue until the Buyer has made a written request for delivery and given the Seller reasonable time to comply with such request. The Goods may be delivered by the Seller in advance of the quoted Delivery Date on giving reasonable notice to the Buyer.
 - 7.3. If the Buyer fails to take delivery of any Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without limiting any other right or remedy available to the Seller, the Seller may:
 - 7.3.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 7.3.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Price under the Contract or charge the Buyer for any shortfall below the Price under the Contract.
 - 7.4. When delivery of the Goods is by instalments:
 - 7.4.1. The Seller may deliver the Goods by separate instalments in accordance with the agreed delivery schedule and each separate instalment shall be invoiced and paid for in accordance with the provisions in these Conditions or as otherwise agreed between the Buyer and the Seller in writing.
 - 7.4.2. The failure of the Buyer to pay for any one or more of the said instalments of the Goods on any respective due date shall entitle the Seller, at the sole option of the Seller:
 - 7.4.2.1. Without notice to suspend further deliveries of the Goods pending payment by the Buyer; and/or
 - 7.4.2.2. To treat this Contract as repudiated by the Buyer.
 - 7.5. The Buyer shall notify the Seller of any non-delivery (either of a whole consignment or any instalment) within 5 working days of the date of dispatch (as stated on the applicable invoice). Notwithstanding the receipt by the Seller of any such notice, an appropriate signature on a carrier's delivery advice sheet shall be deemed to be sufficient evidence of receipt of the quantity of Goods indicated on the advice sheet, except in the case of manifest error or fraud.
 - 7.6. If the Seller fails to deliver the Goods (or any instalment) in whole or in part for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Buyer's sole remedy shall be limited to the Seller making good any shortage by replacing such Goods (or, if the Seller shall elect, by refunding a proportionate part of the Price).
8. **Title and Risk:**
 - 8.1. Save as otherwise provided for in these Conditions, and notwithstanding delivery having been made, property in the Goods shall not pass from the Seller until:
 - 8.1.1. The Buyer shall have paid the Price (plus any packing, delivery and insurance charges as well as any VAT where applicable) for such Goods in full; and
 - 8.1.2. No other amounts shall be due and outstanding for payment from the Buyer to the Seller.
 - 8.2. Until property in the Goods passes to the Buyer in accordance with Condition 8.1 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and shall ensure that they are properly stored and marked in such a way that they are clearly identified as the Seller's property.
 - 8.3. Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value and for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings, provided that until property in the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.
 - 8.4. The Seller shall be entitled to recover the Price (plus any packing, delivery and insurance charges as well as any VAT where applicable) notwithstanding that property in any of the Goods has not passed from the Seller.
 - 8.5. Until such time as property in the Goods passes from the Seller, the Buyer shall upon request deliver up to the Seller such of the Goods as have not ceased to be in existence or resold. If the Buyer fails to do so the Seller may enter upon any premises where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under Condition 8.3 shall cease.
 - 8.6. The Buyer shall not pledge, create any lien over or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
 - 8.7. The Buyer shall insure and keep insured the Goods to the full Price against "all risks" to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the relevant policy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
 - 8.8. The risk in the Goods shall pass to the Buyer on completion of delivery or, if the Buyer wrongfully fails to take delivery of any Goods, the time when the Seller has tendered delivery of the Goods.
9. **Export Licences:**

If any export licence or any Government or regulatory authorisation is required for the manufacture or despatch of the Goods, the Buyer shall be responsible for obtaining such licence or authorisation and the Contract shall be subject to such licence or authorisation being granted. The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them and the Buyer shall indemnify the Seller against any costs or liability incurred in the event of any default in obtaining or complying with the terms of any required licence or authorisation.
10. **Installation and Use of the Goods:**

The Buyer is solely responsible for the installation and use of the Goods, including without limitation, obtaining all permits, licences, or certificates required for the installation or use of the Goods.
11. **Technical Advice:**

Any technical advice offered or given by the Seller is for guidance purposes only, and Seller accepts no liability or responsibility to the Buyer or to any third party in any way for the content or use of any such advice that may be provided by the Seller.
12. **Claims:**

The Buyer shall inspect the Goods immediately on delivery thereof. The Goods shall be deemed to be free from defects or damage and in all respects in accordance with the Contract and the Buyer shall be bound to accept and pay for such Goods at the time or times specified in the Contract unless a written claim is made by the Buyer and is received:
 - (i) by both the Seller and the carrier within three days of delivery in respect of any claim relating to damage, delay or partial loss in transit; (ii) by both the Seller and the carrier within 28 days of dispatch in respect of any claim relating to non delivery or (iii) by the Seller within 28 days of delivery in respect of any claim relating to any other matter. Following any such written claim, the Seller shall be given an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them and Goods subject to any claim must be stored by the Buyer free of charge for our inspection. The Seller reserves the right to request, and if so requested the Buyer shall provide, a failure report for defective goods that are rejected before a return will be allowed or RMA issued. Where the Buyer rejects or purports to reject any Goods then the relevant provisions of these Conditions shall apply in respect of any specified liability and claims.
13. **Warranty:**
 - 13.1. Subject to the following provisions the Seller warrants (unless otherwise specified by the Seller in the Contract) that:
 - 13.1.1. it has title to the Goods; and
 - 13.1.2. that the Goods conform in all material respects with their description; and
 - 13.1.3. that the Goods are free from material defects in design, material and workmanship provided that the use of part numbers or other methods of description in the Contract does not constitute any representation by the Seller with respect to the performance, specification, or fitness for purpose of any Goods.
 - 13.2. If any Goods are shown to be in breach of the warranty given under Condition 13.1 above within a period of 1 year from the date of order, we will (at our option) either refund the Price of such Goods or replace or repair such Goods provided that the Buyer has notified us in writing and returned the Goods to us for inspection within a period of 1 year from the date of order.
 - 13.3. The above warranty is given by the Seller subject to the following conditions:
 - 13.3.1. 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 Buyer, it being acknowledged that the Buyer is solely responsible for determining the specification of all Goods ordered, the uses to which such Goods will be put and their suitability for such uses and that the Seller makes no warranty in relation thereto.
 - 13.3.2. The Seller shall be under no liability in respect of any defect arising from fair wear and tear, willful 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;
 - 13.3.3. The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total Price for the Goods has not been paid by the due date for payment.
 - 13.4. The above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as given by the manufacturer to the Seller (which the Seller hereby assigns to the Buyer to the extent that such assignment is permitted by the terms thereof). The Buyer acknowledges that the Seller is acting solely as a third party distributor of the Goods and that the manufacturer of the Goods shall be solely responsible for all liabilities, claims, damages, obligations, and costs and expenses related to the Goods distributed by the Seller. The Buyer agrees that the manufacturer shall be solely responsible for compliance of the Goods with the manufacturer's warranty and for any maintenance, support or repair of the Goods. The Seller makes no representation, covenant or warranty with respect to the extent or enforceability of the manufacturer's warranty. No repair or replacement of Goods by the Seller or the manufacturer shall extend the warranty period of the manufacturer.
 - 13.5. Except where expressly provided in these Conditions and provided that nothing in any Contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Seller, all other terms, conditions and warranties (whether implied by statute, common law, custom of trade or course of dealing or made expressly) whether by the Seller or its servants or agents or otherwise relating to the quality and/or fitness for purpose of the Goods and/or the extent to which they correspond to any description or sample are excluded to the fullest extent permitted by law.
14. **Limitation of Liability:**
 - 14.1. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within three days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. Any claim by the Buyer which is for non-delivery of Goods shall be notified to the Seller within 28 days after the date the Goods were to be delivered. If the Buyer does not notify the Seller accordingly within the applicable time period, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the Price as if the Goods had been delivered in accordance with the Contract, regardless of whether the facts giving rise to the claim shall have then been discovered or whether processing, further manufacture, other use, or resale of Goods shall have then taken place.
 - 14.2. Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller may replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the Price), in which case the Seller shall have no further liability to the Buyer.
 - 14.3. Subject to Condition 14.5 below, the Seller shall not be liable to the Buyer or any third party for any liability, claims, obligations, damages, costs, or expenses, including without limitation, any direct, indirect, special, incidental, or consequential damages (including lost profits, business losses, personal property damage, personal injury, and death) arising out of or relating to the sale of Goods by the Seller to the Buyer or any related services provided by the Seller by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or in contract, tort (including negligence), breach of statutory or common law duty or otherwise.
 - 14.4. The Seller is not liable for, and the Buyer assumes full liability for, all personal injury and property damage connected with the handling, transportation, possession, processing, repackaging, further manufacture, or other use or resale of Goods, whether the Goods are used alone or in combination with any other material. Goods sold by the Seller are not authorised to be used in life support equipment or for applications in which the malfunction of the Goods can reasonably be expected to result in a situation in which personal injury, death or catastrophic property damage could occur. Any such use by Buyer, or its customer, is at the sole risk of the Buyer, and the Buyer agrees to indemnify and defend the Seller against and hold the Seller harmless from all damages and costs arising out of such use or sale.
 - 14.5. Nothing in these Conditions shall limit or exclude the Seller's liability for:
 - 14.5.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 14.5.2. fraud or fraudulent misrepresentation;
 - 14.5.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - 14.5.4. defective products under the Consumer Protection Act 1987; or
 - 14.5.5. any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
 - 14.6. Subject to Condition 14.5, the Seller's total liability to the Buyer in respect of all losses arising under or in connection with any Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not exceed the Price of the Goods.
15. **Intellectual Property:**
 - 15.1. The Seller takes reasonable steps to combat the risk of counterfeit electronic components but accepts no liability to the Buyer for any loss, damage or injury, whether direct or indirect, resulting from any actual or alleged infringements of intellectual property rights of the Goods (including without limitation any patent, trademark or copyright or similar proprietary rights held or claimed by any third parties).
 - 15.2. The Buyer agrees to indemnify and defend the Seller against and hold the Seller harmless from any and all damages, liabilities, losses, costs and expenses, including legal fees, awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of, any claim or other proceedings in which there is a claim that any drawing, design or specification submitted by the Buyer in relation to any Goods or the Buyer's use, modification or integration of any Goods violates any intellectual property rights of any third party.
 16. Force Majeure:
 - 16.1. The Seller shall not be liable to the Buyer or be deemed to be in breach of any 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 limiting the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
 - 16.1.1. Act of God, explosion, flood, tempest, fire or accident;
 - 16.1.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 16.1.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 16.1.4. import or export regulations or embargoes;
 - 16.1.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
 - 16.1.6. difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 16.1.7. power failure or breakdown in machinery.
 - 16.2. In the event that the Seller is prevented from delivering the Goods on the agreed Delivery Date by any cause beyond our reasonable control, we may suspend delivery of the Goods until a reasonable time after the end of such force majeure event and during such time as is reasonably incidental to the resumption of normal production or sale or cancel or vary the Contract in accordance with Condition 6.3.
 17. **Waiver:**

The Seller's rights shall not be affected or restricted by any indulgence or forbearance granted to the Buyer. No waiver by us of any breach shall operate as a waiver of any later breach.
 18. **Set off and Counterclaim:**

The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set off or counterclaim which the Buyer may have or alleged to have for any reason whatever.
 19. **Insolvency:**

If the Buyer fails to make payment for the Goods in accordance with any Contract or commits any other breach of any Contract or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable (or is deemed to be unable) to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than that for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if any petition for the appointment of an administrator is presented against the Buyer or if the Buyer shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the Goods shall become payable immediately. The Seller may in its absolute discretion and without prejudice to any other rights which it may have:
 - 19.1. suspend all future deliveries of Goods to the Buyer and/or terminate the Contract without liability upon its part; and/or
 - 19.2. exercise any of its rights pursuant to Condition 8.
 20. **Severance:**

Any provisions in this Contract which may be void or unenforceable shall, to the extent of such invalidity or unenforceability, be deemed severable and shall not affect any other provision of these Conditions or of any Contract made between the Seller and the Buyer. If any invalid, unenforceable or illegal provision of any Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
 21. **Assignment and Sub-Contracting:**

The Seller may assign, license or sub-contract all or any part of its rights and obligations under these Conditions or any Contract and the Buyer may do so with the prior written consent of the Seller.
 22. **Governing Law and Jurisdiction:**

These Conditions and any Contract made between the Seller and the Buyer are governed by and subject to the laws of England and Wales and the Buyer and the Seller hereby submit to the exclusive jurisdiction of the English courts.