

AARDVARK FX

SPECIAL EFFECTS - GALAXIS HIRE AND SALES

TERMS & CONDITIONS OF SALE

Application and entire agreement

1. These Terms and Conditions will apply to the purchase of the goods detailed in our quotation (**Goods**) by the buyer (**you**) from Aardvark FX Ltd a company registered in England and Wales under number 8966063 whose registered office is at Aardvark FX LTD, Unit 21, Avon Valley Farm, Pixash Lane, Keynsham, Bristol, BS31 1TS (**we or us**).
2. The person or company agreeing/signing this document is therefore confirming to purchase equipment or services from the Company. The power to make, vary, ratify or discharge this contract may be exercised by an individual acting with a limited company's express or implied authority and on behalf of the company, but this must be clearly stated. The individual confirming this order and signing this Agreement directly and expressly warrants that he/she has been given and has received and accepted authority to sign and execute the documents and confirm orders on behalf of the Party for whom it is indicated he/she has signed, and further has been expressly given and received and accepted authority to enter into a binding agreement on behalf of such Party with respect to the matters concerned herein and as stated herein
3. These Terms and Conditions will be deemed to have been accepted by you when you accept them or the quotation or from the date of any delivery of the Goods (whichever happens earlier) and will constitute the entire agreement between us and you.
4. These Terms and Conditions and the quotation (together, the Contract) apply to the purchase and sale of any Goods between us and you, to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

The placing of a purchase confirms acceptance of these terms and conditions of sale.

Interpretation

5. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
6. The headings in these Terms and Conditions are for convenience only and will not affect their interpretation.
7. Words imparting the singular number include the plural and vice-versa.

Goods

8. The description of the Goods is set out in our sales documentation, unless expressly changed in our quotation. In accepting the quotation you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us. Descriptions of the Goods set out in our sales documentation are intended as a guide only.
9. We can make any changes to the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements.

Price

10. All price lists, brochures and other information we provide with our quotations are presented by us as accurately as possible. They are only binding to us if we have expressly confirmed them in writing.
11. The price (Price) of the Goods is set out in our quotation current at the date of your order or such other price as we may agree in writing.
12. If the cost of the Goods to us increases due to any factor beyond our control including, but not limited to, material costs, labour costs, alteration of exchange rates or duties, or changes to delivery rates, we can increase the Price prior to delivery.
13. Any increase in the Price under the clause above will only take place after we have told you about it.
14. You may be entitled to discounts. Any and all discounts will be at our discretion.
15. The Price is exclusive of fees for packaging and transportation / delivery.
16. The Price is exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

Security

17. We reserve the right upon entering into the contract or during its implementation to require the other party to furnish security guaranteeing that he will meet his payment and other obligations before we implement or continue to implement the contract.

Cancellation and alteration

18. Details of the Goods as described in the clause above (Goods) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.
19. If during the execution of the contract it becomes apparent that it is necessary to make amendments or additions to the contract so that it can be correctly executed, the parties shall adapt or amend the contract under consultation. If the addition or amendment affects the time of implementation, we shall inform the other party as such as soon as possible.

20. We are not obliged to carry out a change to the order until we have confirmed that change in writing, and the other party will reimburse all additional costs that we incur as a result of that change.
21. We reserve the right to engage third-parties for the correct implementation of the contract if we consider it necessary or desirable to do so.
22. The quotation (including any non-standard price negotiated in accordance with the clause on Price (above) is valid for a period of 30 days only from the date shown in it unless expressly withdrawn by us at an earlier time.
23. Either of us can cancel the order for any reason prior to your acceptance (or rejection) of the quotation.

Payment

24. We will invoice you for the Price either:
 - a. on or at any time after the acceptance of the quote; or
 - b. on or at any time after delivery of the Goods; or
 - c. where the Goods are to be collected by you or where you wrongfully do not take delivery of the Goods, at any time after we have notified you that the Goods are ready for collection or we have tried to deliver them.
25. Account customers must pay the Price within 14 days of the date of our invoice or otherwise according to any credit terms agreed between us.
26. New customers, or those not on account must pay the Price before the order will be dispatched
27. You must make payment even if delivery has not have taken place and / or that the title in the Goods has not passed to you.
28. If you do not pay within the period set out above, we will suspend any further deliveries to you and without limiting any of our other rights or remedies for statutory interest, charge you interest at the rate of 5% per annum above the base rate of the Bank of England from time to time on the amount outstanding until you pay in full.
29. Time for payment will be of the essence of the Contract between us and you.
30. All payments must be made in Euros unless otherwise agreed in writing between us.
31. Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

Delivery

32. We will arrange for the delivery of the Goods to the address specified in the quotation, or your order or to another location we agree in writing.
33. If you do not specify a delivery address or if we both agree, you must collect the Goods from our premises.
34. Subject to the specific terms of any special delivery service, delivery can take place at any time of the day and must be accepted at any time between 8 am to 8 pm.
35. If you do not take delivery of the Goods we may, at our discretion and without prejudice to any other rights:
 - a. store or arrange for the storage of the Goods and will charge you for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and / or
 - b. make arrangements for the redelivery of the Goods and will charge you for the costs of such redelivery; and/or
 - c. after 10 business days, resell or otherwise dispose of part or all of the Goods and charge you for any shortfall below the price of the Goods.
36. If redelivery is not possible as set out above, you must collect the Goods from our premises and will be notified of this. We can charge you for all associated costs including, but not limited to, storage and insurance.
37. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
38. We can deliver the Goods by installments, which will be invoiced and paid for separately. Each installment is a separate contract. Any delay in delivery or defect in an installment will not entitle you to cancel any other installment.

Inspection and acceptance of Goods

39. You must inspect the Goods on delivery or collection.
40. If you identify any damages or shortages, you must inform us in writing within 1 day of delivery, providing details.
41. Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.
42. Subject to your compliance with this clause and/or our agreement, you may return the Goods and we will, as appropriate, repair, or replace, or refund the Goods or part of them.

43. We will be under no liability or further obligation in relation to the Goods if:
- a. if you fail to provide notice as set above; and/or
 - b. you make any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or
 - c. the defect arises because you did not follow our oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or
 - d. the defect arises from normal wear and tear of the Goods; and/or
 - e. the defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by you, your employees or agents or any third parties.
44. You bear the risk and cost of returning the Goods.
45. Acceptance of the Goods will be deemed to be upon inspection of them by you and in any event within 2 days after delivery.

Risk and title

46. The risk in the Goods will pass to you on completion of delivery.
47. Title to the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for: (a) the Goods and/or (b) any other goods or services that we have supplied to you in respect of which payment has become due.
48. For as long as the ownership has not transferred to the other party, you may not pledge the delivered goods to third- parties or encumber them with any other rights. You must undertake to cooperate on our first request with the establishment of a right of pledge on claims that you have or will have on his buyers in respect of forward delivery.
49. You are liable for all losses (including losses resulting from theft, loss or usage) caused to our goods in the period preceding the transfer of ownership. Damage, theft or loss must be reported to us without delay.
50. You shall at all times grant us free access to his sites and/or buildings so that we can inspect our products and/or exercise our rights. In the event of you failing to cooperate with the repossession of the delivered goods, despite receiving a written demand to that effect, he will forfeit a penalty of £500.00 (say: five hundred pounds) for each day on which he remains in default.
51. We reserve the right to keep goods of yours that we have in our possession until you have met all of your payment obligations to us, irrespective of the orders placed by you for the aforementioned or other goods of yours. We also have the right of retention in the event of the you being declared bankrupt.
52. Until title to the Goods has passed to you, you must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

53. As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy we may have, we can at any time ask you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.

Termination

54. We can terminate the sale of Goods under the Contract where:

- a. you commit a material breach of your obligations under these Terms and Conditions;
- b. you are or become or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors;
- c. you enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with your creditors; or
- d. you convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of your affairs or for the granting of an administration order, or any proceedings are commenced relating to your insolvency or possible insolvency.

Limitation of liability

55. Our liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this clause.

56. Subject to the clauses above on **Inspection and Acceptance** and **Risk and Title**, all warranties, conditions or other terms implied by statute or common law (save for those implied by Section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.

57. We accept no responsibility for equipment that does not work in conjunction with equipment supplied by you.

58. If we do not deliver the Goods, our liability is limited, subject to the clause below, to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

59. Our total liability will not, in any circumstances, exceed the total amount of the Price payable by you.

60. We will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:
- a. any indirect, special or consequential loss, damage, costs, or expenses; and/or
 - b. any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; and/or
 - c. any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; and/or
 - d. any losses caused directly or indirectly by any failure or breach by you in relation to your obligations; and/or
 - e. any loss relating to the choice of the Goods and how they will meet your purpose or the use by you of the Goods supplied.
61. The exclusions of liability contained within this clause will not exclude or limit our liability for death or personal injury caused by our negligence; or for any matter for which it would be illegal for us to exclude or limit our liability; and for fraud or fraudulent misrepresentation.

Communications

62. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).
63. Notices will be deemed to have been duly given:
- a. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
 - b. when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
 - c. on the fifth business day following mailing, if mailed by national ordinary mail; or
 - d. on the tenth business day following mailing, if mailed by airmail.
64. All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

Data protection

65. When providing the Goods to the Buyer, the Seller may gain access to and/or acquire the ability to transfer, store or process personal data of employees of the Buyer.
66. The parties agree that where such processing of personal data takes place, the Buyer shall be 'data controller' and the Seller shall be the 'data processor' as defined in the General Data Protection Regulation (**GDPR**) as may be amended, extended and/or re-enacted from time to time.
67. For the avoidance of doubt, 'Personal Data', 'Processing', 'Data Controller', 'Data Processor' and 'Data Subject' shall have the same meaning as in the GDPR.

68. The Seller shall only Process Personal Data to the extent reasonably required to enable it to provide the Goods as mentioned in these terms and conditions or as requested by and agreed with the Buyer, shall not retain any Personal Data longer than necessary for the Processing and refrain from Processing any Personal Data for its own or for any third party's purposes.
69. The Seller shall not disclose Personal Data to any third parties other than employees, directors, agents, subcontractors or advisors on a strict "need-to-know" basis and only under the same (or more extensive) conditions as set out in these terms and conditions or to the extent required by applicable legislation and/or regulations.
70. The Seller shall implement and maintain technical and organisational security measures as are required to protect Personal Data Processed by the Seller on behalf of the Buyer. Further information about the Seller's approach to data protection are specified in its Data Protection Policy, which can be found The policy can be obtained by contacting the Data Protection Officer. For any enquiries or complaints regarding data privacy, you can contact our Data Protection Officer at the following e-mail address: tasha@aardvarkfx.com
71. The Customer will be responsible for ensuring all relevant regulations, rules and statutory provisions relating to the use of the equipment are complied with during their ownership and shall keep the us indemnified against all liability for any non-compliance with any such regulation or provision.
72. The use of special effects equipment, either indoors or outdoors, is at the sole discretion of the Customer who will have taken full note of the prevailing situation. They are reminded that these devices can sometimes vary in their performance and no guarantee is given that every device will perform exactly the same. This must therefore be borne in mind when siting and firing such devices. Where the Customer is unfamiliar with the equipment, tests should be carried out at a safe time and in a safe place. The writing of risk assessments and method statements is the responsibility of the Customer, and whilst general advice is available, the Seller is unable to provide any specific documentation.

Circumstances beyond the control of either party

73. Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

No Waiver

74. No waiver by us of any breach of these Terms and Conditions by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

Severance

75. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

Law and jurisdiction

76. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.

Use of Materials

77. Aardvark FX Ltd shall reserve all intellectual property rights (the rights which could be protected by the copyright law, the design law, the trademark law and other intellectual property laws) concerning any documents, programs, movies, animations, articles, sketches, drawings, software, databases, trademarks, logos and other materials available on the Web Site (the Information). Except to enable your personal use of the Information available on the Web Site as well as rights granted to you under applicable mandatory law, you are prohibited from reproducing, distributing, modifying displaying, showing, publicly transmitting or otherwise creating derivative products of any of the information, in whole or in part, regardless of medium, without prior written permission from the intellectual property right owner(s)

Declaration

78. By placing a sales order/accepting a sales quote from Aardvark FX Ltd; you declare that you have received the Terms and Conditions of Sale of the company Aardvark FX Ltd and that you accept these for this and all following orders. Place of fulfilment is Bristol. Place of jurisdiction is England or the nearest court to this place that is having jurisdiction in the United Kingdom. The only applicable law is the law of England and Wales.

Our Contact Details:

Aardvark FX LTD, Unit 21, Avon Valley Farm, Pixash Lane, Keynsham, Bristol, BS31 1TS

+44 (0) 1179 863051

info@aardvarkfx.com