Alethium Seller Terms (United Kingdom)

1. About these terms

1.1 These terms (the "Agreement") are between Alethium Limited, a company registered in England and Wales (company number 14540941, registered office: 3 Craigwell Villas, Lane End Road, Instow EX39 4LD) ("Alethium", "we", "us") and the business that registers as a seller on the Platform ("Seller", "you").

1.2 Alethium provides trade finance. You raise orders for your business customers through the Platform. Where a customer chooses to pay on financed terms, we buy the goods from you and resell them to the customer, so that you are paid without waiting for the customer's payment terms to run.

1.3 By registering as a Seller you confirm that you are acting in the course of business, that you have authority to bind the Seller, and that the Seller agrees to this Agreement.

2. Definitions

In this Agreement:

Affected Amount means the part of the amount we have paid or are due to pay you for a Financed Order, including VAT, that is affected by a Recourse Event or, for a Recourse Event under clause 9.4(c) or 9.4(d), the whole of that amount.

Applicable Law means all laws, regulations and mandatory codes that apply to a party, its business or the Goods.

Business Day means a day other than a Saturday, Sunday or public holiday in England.

Buyer means the business customer named in an Order.

Buyer Contract means the contract under which Alethium sells the Goods in a Financed Order to the Buyer.

Credit Event means the Buyer's insolvency or its financial inability to pay.

Direct Order means an Order that does not become a Financed Order.

Financed Order means an Order that has become a Financed Order under clause 5.1.

Funder means any third party that funds, purchases or takes security over receivables arising from Financed Orders.

Goods means the goods and any related services described in an Order.

Order means an order or invoice you raise on the Platform for a Buyer.

Order Documents means, for an Order, the Buyer's purchase order or other evidence of its agreement to buy, proof of delivery to the Buyer (a signed delivery note or carrier confirmation of delivery to the Buyer's address), and any correspondence about a dispute, return or credit.

Order Value means the price of the Goods stated in the Order, excluding VAT and excluding any financing fee payable by the Buyer to Alethium.

Platform means the Alethium online platform and related services.

Recourse Event has the meaning given in clause 9.4.

Supply Contract means the contract under which you sell the Goods in a Financed Order to Alethium.

3. Registration and account

3.1 You must give us accurate and complete information when you register and keep it up to date, including your legal name, registered address, VAT registration status and bank details.

3.2 We may carry out identity, anti-money laundering, sanctions, credit and fraud checks on you, your owners and your officers, at registration and at any later time. You will give us the information we reasonably ask for. We may decline or suspend your registration if a check is not completed to our satisfaction.

3.3 You are responsible for keeping your login details secure and for everything done through your account. Tell us immediately if you suspect unauthorised use.

4. Raising Orders

4.1 You raise each Order on the Platform and are responsible for its accuracy, including the Buyer's identity, the Goods, the price, the VAT treatment and the delivery details.

4.2 Each Order is an offer by you to sell the Goods to Alethium on the terms of this Agreement if the Order becomes a Financed Order.

4.3 We are not obliged to accept any Order. Financing depends on the Buyer's eligibility and credit limit and on Funder approval, and may be declined or withdrawn at any time before an Order becomes a Financed Order.

4.4 A Direct Order is a sale between you and the Buyer only. Alethium is not a party to it, does not collect payment for it and has no liability for it. Clauses 5 to 9 do not apply to Direct Orders.

5. How a Financed Order works

5.1 An Order becomes a Financed Order when the Buyer has accepted it and chosen to pay on financed terms and we have confirmed through the Platform that the Order is approved for financing.

5.2 At that moment two separate contracts are formed: the Supply Contract, under which you sell the Goods to Alethium for the Order Value, and the Buyer Contract, under which Alethium sells the Goods to the Buyer.

5.3 Alethium acts as principal and as merchant of record under both contracts. Alethium is not your agent and you are not ours. You have no authority to bind Alethium or to make any commitment on its behalf.

5.4 Title to the Goods passes from you to Alethium on delivery to the Buyer. You will pass full and unencumbered title. Alethium may retain title as against the Buyer, under the Buyer Contract, until the Buyer has paid in full.

5.5 Risk in the Goods stays with you until delivery to the Buyer and then passes directly to the Buyer. Alethium does not take possession of the Goods and does not bear risk in them at any time.

5.6 You waive any retention of title, lien or similar right over the Goods in a Financed Order as against Alethium, the Buyer and any Funder. This does not affect your rights under clause 8.3.

5.7 The debt owed by the Buyer for a Financed Order belongs to Alethium alone. You will not ask for or accept payment from the Buyer for a Financed Order. If you receive any such payment you hold it on trust for Alethium and will pay it to us within 2 Business Days.

5.8 You will not vary or cancel a Financed Order, or agree any credit, discount, rebate, extension or set-off with the Buyer in relation to it, except through the Platform or with our written consent.

6. Delivery and Order Documents

6.1 You will deliver the Goods to the Buyer in accordance with the Order. You perform delivery, and any related services, at your own cost and risk.

6.2 You will obtain and keep the Order Documents for every Financed Order.

6.3 You will give us copies of the Order Documents within 3 Business Days of our request, or within 24 hours where we tell you the request relates to suspected fraud.

6.4 You will keep the Order Documents for at least six years after the date of the Order.

6.5 You will cooperate with reasonable verification or audit requests from us or from a Funder about any Financed Order.

6.6 You must confirm dispatch of each Financed Order on the Platform, and only once the Goods are ready to leave your premises. The Goods must be handed to the carrier within 24 hours of that confirmation.

6.7 If we tell you that an Order is suspected of fraud, you will stop shipment immediately where the Goods have not yet been delivered and give us all the information you hold about the Order.

7. Order warranties

7.1 For each Financed Order you warrant, when it becomes a Financed Order and again on delivery, that:

(a) it is a genuine sale made at arm's length, in the ordinary course of your business, to a Buyer acting in the course of its business;

(b) the Goods have been or will be delivered in full, on time and free from defects, as stated in the Order;

(c) the Order Value is correctly stated and is payable by the Buyer in full, without set-off, counterclaim, deduction or retention;

(d) there is no side agreement, rebate, credit, sale-or-return or consignment arrangement relating to the Order that is not recorded on the Platform;

(e) the Buyer is not your affiliate and is not owned or controlled by you, your owners or your officers, or by anyone connected with them;

(f) the Order does not refinance or re-invoice an existing debt, or relate to Goods already invoiced to the Buyer outside the Platform;

(g) you can pass title to the Goods free of any security or third-party right, and the sale does not breach any factoring, invoice discounting, financing or security arrangement you have entered into;

(h) you are not aware of any dispute with the Buyer, or of any fact suggesting the Buyer is or is likely to become insolvent, that you have not disclosed to us;

(i) the Goods comply with Applicable Law and you hold every licence, consent and permission needed to sell them; and

(j) the Order, the Order Documents and all other information you have given us are true, complete and not misleading.

8. Payment

8.1 The price we pay you under each Supply Contract is the Order Value, plus VAT where applicable. We do not charge you any fee or commission. Our fee is a financing fee charged to the Buyer.

8.2 We will pay you within 2 Business Days after we receive cleared funds for the Financed Order from the Funder or the Buyer. Our obligation to pay you arises only when we receive those funds.

8.3 If we have not received funds within 10 Business Days after an Order became a Financed Order, either of us may cancel the Supply Contract by notice. If the Goods have not been delivered, the Supply Contract and the Buyer Contract end without liability. If the Goods have been delivered, we will assign to you our right to payment from the Buyer for the Order Value, together with our rights in the Goods, so far as we are able, and that assignment is your only remedy.

8.4 We pay in pounds sterling to the bank account in your name that you nominate on the Platform.

8.5 We may set off any amount you owe us, under this Agreement or otherwise, against any amount we owe you.

8.6 If you are registered for VAT in the United Kingdom, invoices for your supplies to us are issued under the self-billing agreement in Schedule 1.

8.7 Any commercial terms that differ from this clause 8 apply only if set out in writing and signed by both parties.

9. Disputes, returns and recourse

9.1 You are responsible for the Goods. You give Alethium, under each Supply Contract, the same terms as to description, quality, fitness for purpose and compliance that Alethium gives, or that are implied, in favour of the Buyer under the Buyer Contract. You will handle Buyer complaints, returns and warranty claims promptly and at your own cost.

9.2 You will tell us within 2 Business Days of becoming aware of any dispute, return request, non-delivery or complaint relating to a Financed Order, or of any change to the name or address of the Buyer.

9.3 Any credit or return for a Financed Order must be recorded on the Platform. Where a credit is agreed, you will repay the credited amount to us within 5 Business Days.

9.4 A "Recourse Event" occurs for a Financed Order if:

(a) any warranty in clause 7 is untrue or is breached;

(b) the Buyer disputes its liability to pay all or part of the amount due, for a reason relating to the Goods, their delivery or your conduct;

(c) you fail to comply with clause 6.3 or clause 6.6;

(d) there is fraud or dishonesty by you, or in which you are involved; or

(e) a Funder requires us to repurchase or refund the receivable, or returns it to us, for a reason attributable to any of the matters in (a) to (d).

9.5 If a Recourse Event occurs you will pay us the Affected Amount within 5 Business Days of our demand, together with any fees, charges and costs we reasonably incur as a result, including amounts we must pay to a Funder.

9.6 You are not liable to us where the Buyer fails to pay solely because of a Credit Event. This clause does not apply where a Recourse Event has also occurred.

9.7 Once you have paid the Affected Amount in full we will, so far as we are able, assign to you our rights against the Buyer for that amount.

9.8 If a dispute under clause 9.4(b) is later resolved and we receive payment from the Buyer of an amount you have paid us under clause 9.5, we will pay that amount back to you.

10. Your general obligations

10.1 You will comply with Applicable Law in running your business and supplying the Goods, including laws on product safety, quality, labelling, advertising, and import and export. Any certificate or test result you give us or a Buyer must be genuine and relate to the Goods.

10.2 You will comply with Applicable Law on bribery and corruption, sanctions, modern slavery and the facilitation of tax evasion.

10.3 You will maintain insurance appropriate to your business and the Goods, including product liability cover.

11. Inviting Buyers, data and confidentiality

11.1 Each party acts as an independent controller of the personal data it processes under this Agreement and will comply with the UK GDPR and the Data Protection Act 2018. We process personal data as described in our Privacy Policy.

11.2 When you invite a customer to the Platform or raise an Order for a customer, you confirm that you are entitled to give us that customer's business contact details and that we may contact the customer about the Platform and the Order.

11.3 We may share information about you and your Orders with Funders, credit reference and fraud prevention agencies, and our professional advisers, for the purposes of identity and credit checks, fraud prevention, financing and collection.

11.4 You grant us a non-exclusive, royalty-free licence to use your name, logo and Order content to operate the Platform and perform this Agreement.

11.5 Each party will keep the other's confidential information confidential and use it only to perform this Agreement, except where disclosure is required by law or permitted by clause 11.3.

12. Indemnity

12.1 You will indemnify Alethium against all losses, liabilities, costs and expenses (including reasonable legal fees) arising from:

(a) any claim by a Buyer or other third party relating to the Goods, their delivery or your conduct;

(b) any breach of clause 7 or clause 10;

(c) any claim by, or liability to, a Funder to the extent caused by your breach of this Agreement;

(d) any claim that the Goods or your content infringe a third party's intellectual property rights; and

(e) your fraud or dishonesty.

12.2 We will tell you promptly about any third-party claim covered by clause 12.1 and consult you on its handling. You will not settle any such claim without our written consent, which we will not unreasonably withhold.

13. Liability

13.1 Nothing in this Agreement limits or excludes liability for death or personal injury caused by negligence, for fraud or fraudulent misrepresentation, or for anything else that cannot be limited or excluded by law. Nothing in this clause 13 limits our obligation to pay the Order Value under clause 8.2 once we have received funds, or your obligations under clauses 9 and 12.

13.2 Subject to clause 13.1, we are not liable for loss of profit, revenue, business or goodwill, or for any indirect or consequential loss.

13.3 Subject to clause 13.1, our total liability for all claims relating to an Order is limited to its Order Value, and our total liability for all other claims arising in any twelve-month period is limited to £5,000.

13.4 We are not liable for any decision of a Funder, including a decision to decline, limit or withdraw financing, or for any interruption to or unavailability of the Platform.

14. Term, suspension and termination

14.1 This Agreement starts when you register and continues until terminated.

14.2 Either party may terminate on 30 days' written notice. You may also terminate by closing your account.

14.3 We may suspend your account or terminate this Agreement immediately if: you materially breach this Agreement; a Recourse Event occurs; you become insolvent, enter any insolvency process or cease to trade; a check under clause 3.2 is not completed to our satisfaction; we reasonably suspect fraud; a Funder requires it; or your conduct is likely to harm our reputation or the operation of the Platform.

14.4 Termination does not affect Financed Orders already made or any rights that have accrued. Clauses 5.7, 6.3 to 6.7, 8.5, 9, 11.5, 12, 13 and 16 continue after termination.

15. Changes to these terms

15.1 We may change this Agreement. We will give you at least 30 days' notice by email of any material change. A change does not apply to an Order that became a Financed Order before the change took effect.

15.2 If you continue to use the Platform after a change takes effect you accept it. If you do not accept a change you may terminate under clause 14.2.

16. General

16.1 Assignment. We may assign, charge or otherwise deal with our rights under this Agreement and under any Supply Contract or Buyer Contract, including in favour of a Funder. You may not assign or deal with your rights without our written consent.

16.2 No partnership or agency. Nothing in this Agreement creates a partnership, joint venture or agency between the parties.

16.3 Notices. We will send notices to the email address on your account. You may send notices to info@alethium.io.

16.4 Events outside a party's control. Neither party is liable for delay or failure caused by events beyond its reasonable control. This does not excuse any obligation to pay money.

16.5 Entire agreement. This Agreement and each Order are the entire agreement between the parties about their subject matter. Nothing in this clause limits liability for fraud.

16.6 Severability and waiver. If any provision is found to be invalid the rest continue in force. A delay in enforcing a right is not a waiver of it.

16.7 Third-party rights. No one other than the parties and their permitted assignees may enforce this Agreement.

16.8 Governing law and jurisdiction. This Agreement, each Supply Contract and any non-contractual obligations arising from them are governed by English law. The courts of England and Wales have exclusive jurisdiction.

Schedule 1: Self-billing agreement

This Schedule is a self-billing agreement between Alethium Limited (the customer and self-biller, VAT registration number GB434387189) and the Seller (the supplier, whose name, address and VAT registration number are those recorded on its Platform account). It applies only while the Seller is registered for VAT in the United Kingdom.

1. Period

1.1 This self-billing agreement starts on the date the Seller accepts the Agreement, or the later date on which the Seller's VAT registration number is recorded on the Platform, and ends when the Agreement terminates.

1.2 Alethium will review this self-billing agreement at least every twelve months and may ask the Seller to reconfirm it through the Platform.

2. Alethium agrees

(a) to issue self-billed invoices for all supplies the Seller makes to it under Supply Contracts during the period in paragraph 1;

(b) to complete each self-billed invoice with the Seller's name, address and VAT registration number and all the other details that make up a full VAT invoice;

(c) to mark each self-billed invoice "SELF-BILLING" and to include the statement "The VAT shown is your output tax due to HMRC";

(d) to make a new self-billing agreement if the Seller's VAT registration number changes; and

(e) to tell the Seller if the issue of self-billed invoices is to be outsourced to a third party. At the date of this Agreement self-billed invoices are issued by Alethium through the Platform.

3. The Seller agrees

(a) to accept each self-billed invoice Alethium raises on its behalf during the period in paragraph 1;

(b) not to raise its own sales invoices for supplies covered by this self-billing agreement; and

(c) to tell Alethium immediately if it changes its VAT registration number, ceases to be registered for VAT, or sells or transfers its business or part of it.

4. Sellers not registered for VAT

4.1 If the Seller is not registered for VAT, Alethium will not issue self-billed VAT invoices. Alethium will instead issue a purchase statement for each Supply Contract showing no VAT, which the Seller accepts as the record of the supply.

4.2 The Seller will tell Alethium immediately if it becomes registered for VAT. This self-billing agreement applies from the date its VAT registration number is recorded on the Platform.

5. Incorrect VAT

5.1 If VAT is shown on a self-billed invoice that should not have been, because the Seller failed to tell Alethium of a matter in paragraph 3(c), the Seller will repay that VAT to Alethium on demand.