

SPECIFIC CONDITIONS X1 – SUPPLY OF PRODUCTS

These Specific Conditions govern the Products that may be supplied by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “**Conditions**”), which shall be deemed to be incorporated into the Contract for the supply of any Products under these Specific Conditions.

1 DEFINITIONS

- 1.1 Capitalised terms used in these Specific Conditions shall have the following meanings for the purposes of these Specific Conditions only:
- “Specification” means the specification of the Products as set out in the Order Form or other documents referred to in the Order Form; and
- “Under Warranty” means any Product that, at the relevant time, was covered by a warranty from the Vendor.
- 1.2 All other capitalised terms, which are not defined in paragraph 1.1, shall have the meaning stated in the Conditions or other applicable Specific Conditions.

2 PURCHASE OF PRODUCTS

- 2.1 The Customer has agreed to purchase and, subject to confirmation of availability, the Company has agreed to supply the purchased Products subject to the Conditions, these Specific Conditions and the Order Form.
- 2.2 The Customer shall not be entitled to cancel, vary or terminate any order for Products for convenience unless an express right to do so is set out in the Order Form.

3 DELIVERY

- 3.1 In consideration of the Customer's payment of the Price, the Company will take reasonable steps to deliver the Products within an estimated period of time to the address agreed for delivery as stated in the Order Form or as otherwise agreed in writing between the parties. Such period shall commence from the later of (i) the date of receipt by the Company of all instructions and information required for the supply and delivery of the Products; or (ii) the date of the Order Form. The Company does not guarantee that delivery will take place within such period, and time is not (and may not be made) of the essence of this Contract.
- 3.2 The Customer is responsible for providing the Company with any necessary instructions for delivery of the Products within a reasonable period prior to the estimated delivery date advised by the Company to the Customer.
- 3.3 If the Customer fails to take delivery of the Products or, if by reason of instructions or lack of instructions from the Customer, the delivery of any Products in accordance with this Contract is delayed for more than 28 (twenty-eight) days after the Company has given notice in writing to the Customer that the Products are ready for delivery, the Products shall be deemed to have been delivered. The Customer shall pay to the Company the reasonable costs of storing, protecting and preserving such Products after the expiry of such period of 28 (twenty-eight) days.
- 3.4 The Company may deliver the Products by instalments. Any delay in the delivery of any instalment shall not entitle the Customer to treat the Contract as at an end or to reject any other instalment.
- 3.5 If by reason of refusal or delay of delivery or installation the Products shall be deemed to have been delivered in accordance with paragraph 3.3 then payment shall be made by the Customer to the Company of the balance of the Price within seven (7) days of such deemed delivery date.
- 3.6 It is the Customer's responsibility to check the external packaging and the Products for evidence of loss, tampering or damage before accepting delivery of the Products.
- 3.7 Any shortfall in the Products delivered, non-delivery of Products or damage to Products in transit (where the Company is arranging carriage) must be notified in writing to the Company within 3 (three) Business Days of the date that the Products were due to arrive (if notified by the Company), or of delivery at the Customer's address, as applicable. In the absence of such notice, the Products shall be deemed to have been delivered in full and without fault or damage.
- 3.8 Any damaged or faulty Products, which the Customer is entitled to return, must be notified to the Company and made available for collection properly packaged within 3 (three) Business Days of the date of delivery, together with all accessories and original packaging. Otherwise the Products shall be deemed to have been delivered in full and without fault or damage.
- 3.9 Unless otherwise stated in the Order Form, the Customer is responsible for any customs, import or other duties charged in respect of the sale and importation of Products into the country in which the Customer is resident or the delivery is made and shall promptly reimburse the Company in respect of any such costs incurred by the Company.

4 TITLE AND RISK

- 4.1 The risk of loss or damage to the Products shall vest with the Customer from the moment of delivery or deemed delivery (as described in paragraph 3.3) irrespective of whether title to the Products has passed or payment or part payment made.
- 4.2 Notwithstanding delivery and the passing of risk, the legal and beneficial interest in the Products supplied under this Contract shall not pass to the Customer until the Company has received in cleared funds payment in full of the Price due for the Products. To the extent the Products constitute software in whole or in part, this paragraph shall not prejudice any proprietary rights of the applicable Vendor, the Company or any of its licensors or any other entity with any rights in respect of such software. Software is licenced, not sold, and title to it shall remain at all times with the licensor.
- 4.3 Until such time as the legal and beneficial interest in the Products has passed to the Customer, the Customer shall hold such Products as the Company's fiduciary agent and bailee, and keep such Products properly stored, protected and kept free from any loss, damage, and/or deterioration and insured against all risks for its full reinstatement value and identified as being the Company's property until title passes.
- 4.4 Until such time as the legal and beneficial interest in the Products passes to the Customer, the Company shall be entitled at any time to require the Customer (at the Customer's cost) to deliver up the Products to the Company at its nominated location and, if the Customer fails to do so without delay, to enter upon any Customer Premises or the premises of any third party where the Products are stored and remove and repossess such Products.
- 4.5 The Customer shall not, without the prior written consent of the Company, pledge or in any way charge by way of security for any indebtedness, or alter or modify, any Products that remain the property of the Company, but if the Customer does so all monies owing by the Customer to the Company shall (without prejudice to any right or remedy of the Company) immediately become due and payable.

5 SPECIFICATION

- 5.1 The Company reserves the right to change the Specification or provide substitute or new Products, provided that its operational performance is not materially different and if the Company reasonably considers it to be of equal or better quality.
- 5.2 Except for the Specification, any specifications and descriptions issued by the Company or the Vendor (or any other third party), do not form part of the Contract and are not a warranty or representation relating to the Products.

6 WARRANTIES

- 6.1 The Customer acknowledges that the Company is not the designer or manufacturer of the Products and accordingly that, except as stated in this paragraph 6 or expressly stated in the Order Form, the Company shall have no obligation to carry out any repair or maintenance on the Products.
- 6.2 If any Product Under Warranty is defective in material or workmanship, the Company will assist with the transfer to the Customer of the benefit of the relevant warranty and if applicable may return such Products to the Vendor for repair or replacement. Any alternative equipment provided by the Company (at the Company's discretion) for the Customer's temporary use during the repair or replacement of the Equipment shall be at the Customer's risk, shall remain the property of the Company and shall be returned to the Company within 7 (seven) days of any request by the Company to do so.

7 FINANCE AND CREDIT

- 7.1 It is agreed that where the Company introduces a finance provider or lease provider to arrange finance for the purchase or leasing of Products then the Company acts as introducer only and does not provide any advice, guidance or recommendation to the Customer in respect of the relevant finance.
- 7.2 The Customer undertakes to supply all information requested by the selected finance provider(s) who will register searches with one or more credit agencies, which will be seen by other organisations that make searches.
- 7.3 In the event that the Customer is unable to obtain relevant finance on the terms originally proposed and/or any failure by the Customer to complete any relevant finance agreement documentation shall render the Customer liable to pay to the Company the whole of the Price within 21 (twenty one) days of the date of the Company's invoice.

8 CUSTOMER OBLIGATIONS

- 8.1 Unless otherwise expressly stated on the Order Form, the Customer will remain responsible for any end of life existing equipment that is being replaced by the Equipment and for the costs of collection, treatment, recovery and environmentally sound disposal of the Equipment in accordance with Relevant Law.
- 8.2 The Customer shall be responsible for the Equipment when it reaches its end of life and for the costs of collection, treatment, recovery and environmentally sound disposal of the Equipment in accordance with Relevant Law.
- 8.3 The Customer will be responsible for ensuring that the Products are suitable for its required purposes and capable of performing the functions and use to which it is intended to put them.
- 8.4 Unless otherwise expressly stated on the Order Form or otherwise agreed in writing, the Customer is responsible for disposing of all delivery and packaging materials.
- 8.5 The Products may be subject to Canadian, UK and/or US import and/or export controls and/or trade laws or the trade laws of other countries. The Customer agrees not to release or re-export the Products without the prior written consent of the Company. If the Company consents then the Customer shall be solely responsible for determining and complying with all applicable export and import laws, regulations, compatibility and homologation requirements. In addition, where applicable, the Customer shall not transfer, export or re-export Products to any entity identified on the most current Canadian, UK and/or US government export exclusions lists, or to any country subject to Canadian, UK and/or US embargo or terrorist controls as identified in the Canadian, UK and/or US export laws. The Customer agrees to provide the Company with additional information or assurance, which the Company may request in order to comply with applicable regulatory and legal obligations. The Company may immediately terminate all or any portion of any shipment or transfer of Products if the Customer is designated by any department, agency or office of the Canadian, UK and/or US Government as being ineligible to receive such Products or technology under applicable Canadian, UK and/or US law. The Customer will not use or provide Products for nuclear, missile, or chemical and biological weaponry uses and will not divert such to third parties who are military end users or are involved in military uses without the prior written approval of the Company. The Customer warrants that all Products will be used or installed solely for its own internal business purposes and that of the Customer's Group.
- 8.6 The Customer shall indemnify and hold harmless the Company and all members of the Company's Group in respect of any liability, loss, injury, damage, demand, claim, cost charge or expense that may be incurred by or awarded against the Company or any member of the Company's Group, by reason of or arising directly or indirectly out of or in respect of against any claim or liability arising out of:
 - 8.6.1 any change, alteration or modification of any Products not performed by the Company, the Vendor or any member of the Company's Group;
 - 8.6.2 the combination of the Products with any other equipment, data, documentation, items or products not supplied by the Vendor or otherwise approved in writing by the Vendor;
 - 8.6.3 the use of any Products in a manner or for a purpose for which it was not intended;
 - 8.6.4 failure to use or implement an upgrade or replacement version of any Products when such upgrade or replacement version is made available by the Company or the Vendor;
 - 8.6.5 the import or export of any Products in violation of applicable export and/or import control requirements, regulations or laws;
 - 8.6.6 the use or exportation of any Products into any countries identified on any US Government embargoed countries list; or
 - 8.6.7 the use of any Products in a manner or for a purpose not authorised under the applicable end user license agreement (if any).

9 PRICE

- 9.1 The Customer shall pay the Price for the Products, which will be invoiced on delivery (or deemed delivery in accordance with paragraph 3.3) of the Products, in full and cleared funds and within 21 (twenty-one) days of invoice.
- 9.2 The Price will change and the changed Price will apply to any purchase for Products if, prior to delivery of the Products, the Company discovers an error in the price of the Products ordered or the wholesale price to the Company changes as a result of circumstances beyond the Company's control (for example, but without limitation, exchange rate fluctuations, changes to import duties or taxes and/or the Company's supplier varies the wholesale cost).
- 9.3 If the Company is delayed in or prevented from delivering or installing the Products, where such delivery and installation has been agreed to by the Company, by the date agreed to, due to any delay or default on the part of the Customer and/or its employees, agents or representative, the Company may, in addition to any other remedies it may have, make a reasonable charge in respect of any additional costs that it incurs. These additional costs will be invoiced and paid as stipulated in paragraph 9.1.
- 9.4 Unless otherwise agreed in the Order Form the Price of the Products excludes the cost of packaging, insurance and delivery of the Products, which shall be invoiced to the Customer as additional Charges.