

# Standard Terms & Conditions

## 1. DEFINITIONS

in these Conditions the following words shall have the following meanings:

"the Company" shall mean NU Network Products Limited t/as Networks Unlimited.

"the Customer" shall mean the company firm or individual named on the face of this document.

"the Goods" shall mean any goods agreed in the Contract to be supplied by the Company.

"the Contract" shall mean the contract or contracts for the sale of Goods or Services made between the Company and the customer.

"these conditions" shall mean the terms and conditions set out below as varied from time to time in writing by the Company and the condition implied into this Contract by Section 12 of the Sale of Goods Act 1978.

"the Quotation" shall mean the Company's written Quotation for the Goods (if any).

"the Acknowledgement" shall mean the Company's written confirmation of the Customer's Order for the Goods (if any).

"the Equipment" shall mean any equipment, machinery, parts, spares, software and any other goods or services supplied by the Company.

## 2. PRELIMINARY

- (a) The Company contracts subject to the terms and conditions set out below. No additions to or modifications thereof shall form part of the contract unless accepted by the Company in writing.
- (b) These terms and conditions shall override and take the place of any other terms and conditions in any document or other communication of/with the Customer used in concluding the contract with the Company.

## 3. EXCLUSIVE TERMS OF CONTRACT

- (a) The Company shall sell the Goods exclusively on and subject to those Conditions and no other terms, conditions, warranties, undertakings or representations express or implied shall apply to the Contract. In the event that any order or any other document by the Customer purports to incorporate into the Contract any terms or conditions other than these Conditions delivery of the Goods by the Company shall in each case be deemed to be made on the condition that such delivery constitutes an offer to the Customer by the Company to enter into the Contract only subject to these Conditions which shall be accepted by the Customer on his taking delivery of the Goods.
- (b) No variation of these Conditions shall be effective unless it is expressly made or confirmed in writing by the Company.

## 4. TIME

- (a) Any period of time stated for delivery or for compliance with any other contractual obligations of the Company are estimates only and in any event the Company accepts no responsibility for loss or damage resulting from delay or failure to notify the Customer of any such delay.
- (b) Estimated times run from the date of the Company's acceptance of the Customer's written order together with any payment due with such order and receipt of all samples, information, licences and consents necessary to proceed with the order.
- (c) Changes in specification or additional work or revised instructions relating to any aspect of the contract will entitle the Company to vary any estimates of price and/or time for completion of the contract.
- (d) All dates quoted or referred to in the Acknowledgement for delivery of the Goods are estimates only given in good faith and the Company gives no warranty or representation as to its ability to meet such dates. The Company will use its best endeavours to meet delivery dates but shall be under no liability whatsoever for any delay of delivery exceeding six months.

## 5. QUOTATION AND PRICE LISTS

- (a) Quotations issued by the Company are subject to these Conditions and unless previously withdrawn orders may be made upon a quotation issued by the Company during the period stated or if no period be stated for a period of 30 days after the date issued.
- (b) Price Lists are issued from time to time by the Company and are valid only at the time of going to press. Market fluctuations may mean that the prices shown may not be current and are indicated as a guide. Orders placed based on Price List prices will not be accepted if prices differ the time the order is placed where the then current price will prevail.
- (c) The Company has the right to accept or refuse orders received by it based on a Quotation or Price List issued by the Company.

## 6. PRICES

Unless otherwise specified prices are for delivery ex-the Company's ofces and are subject to the Company's right to increase any price to take account of delivery charges, insurance costs, special handling charges (if any) and/or packaging charges (if any), agreed changes in the Specifications or changes in any taxes, duties or levies charged on or in relation to the Equipment or goods, materials or services used on or in relation to this contract and/or any extra costs or expense incurred by the Company as a result of site conditions, delays, interruptions, lack of information, changes in exchange rates and/or without limitation any other factors beyond the Company's control.

## 7. DESPATCH AND DELIVERY

- (a) Unless otherwise agreed in writing delivery of the equipment will be ex-works.
- (b) Where despatch is delayed through the Customer's unwillingness or inability to arrange carriage or to make any payment due prior to despatch the Company may effect delivery of the Equipment by giving written notice that it is ready for despatch.
- (c) If the equipment is stored by the Company at the Customer's request or after notice has been given that the Equipment is ready for despatch the Customer shall reimburse the Company for all costs and expenses of storage (including any necessary transit costs and insurance.)

## 8. DEFECTIVE GOODS

- (a) The Company reserves the right at its sole discretion to decide whether Goods are defective.
- (b) Defective Goods will be replaced or rectified by the Company as originally ordered or if rectification or replacement is not practicable the Company will credit the value of the Goods at the issued invoice price.
- (c) Claims made under (b) above must be made in writing to the Company within 7 days of the date of delivery.
- (d) The Company shall not be liable for any loss damage or expense whatsoever and howsoever arising from any defect save as detailed in (b) above
- (e) Defects discovered in any delivery shall not entitle The Customer to rescind the remainder of any Contract.
- (f) All carriage charges arising hereunder are the responsibility of the Customer.

## 9. PROOF OF DELIVERY

Should the Customer advise the Company in writing that Goods on the Company's invoice have not been received and request that the Company provide Proof of Delivery, the Company shall provide such Proof of Delivery. Should the consignment be found to have been delivered to the Customer, then the Company reserves the right to charge the customer the sum of £9-50 (plus VAT) standard charge for this investigation, such sums will become due and payable by the Customer. Should the Customer advise the Company of any discrepancy the Company shall investigate accordingly. The Company then reserves the right to levy a charge of £9-50 (plus VAT) which shall become due and payable by the customer if such discrepancy is found to be groundless.

## 10. SHIPMENT

- (a) The Customer shall be responsible for inspecting the Equipment on arrival and shall notify the Company immediately if there is any damage, discrepancy or shortage or within 7 days after receipt of notice of despatch in the event of non-arrival.

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- (b) The Customer specifically authorises the Company to make any such contract of carriage and/or insurance on behalf of the Customer as the Company considers necessary and the Company will be under no obligation to notify the Customer thereof so as to enable the Customer to insure the Equipment during sea transit (if any). The Customer shall be responsible for complying with all conditions and requirements of the carriers.
- 11. PROPERTY RISK AND INSURANCE**
- (a) "The Equipment" shall remain the property of the Company until the Company has received the full amount of the price or until prior sale by the Customer in which latter event the Company shall be entitled to the proceeds of resale or to claim for such proceeds. So long as "the Equipment" remains the property of the Company and the Customer is in default in any obligation under this Agreement the Company shall have the right with or without prior notice to the Customer to re-take possession of the Equipment and for that purpose to go upon any premises occupied by the Customer and on such re-taking of possession this Agreement shall be terminated but without prejudice to the rights of the Company to enforce any other or additional remedy existing at the time of termination in respect of such default.
- (b) The risk in the Equipment shall pass to the Customer on despatch, thereafter the Customer shall be responsible for the satisfactory care and protection of the Equipment and shall take out at its own expense adequate and comprehensive all risks cover on the Equipment (with a note of the Company's interest endorsed thereon) until the Company has received payment of the price in full.
- 12. PAYMENT**
- (a) Unless otherwise agreed in writing invoice is due for immediate settlement.
- (b) In no case shall any dispute concerning any item or separate part of the Equipment or work or any further contractual obligation of the Company to the Customer affect the Customer's obligation in respect of payments for other parts if any part or instalment of the price is not paid when due, or work on the Equipment is held up for any reason attributable to the Customer, or the Customer incurs bankruptcy, insolvency, liquidation or the appointment of a Receiver, the full price of the Equipment less any sums already paid in respect of the Equipment and/or works done by the Company shall immediately become due and payable by the Customer and the Company may at its option cancel the contract or cancel or suspend despatch.
- (c) Without prejudice to any other right of the Company all overdue payments shall carry interest at the rate of two per cent per month or part month on the amount or amounts by the time being outstanding.
- (d) In the event that the Customer does not take delivery of the whole quantity of the goods which are subject of any contract to which these conditions apply on the date or within the time laid down by such contract then, without prejudice to any other remedy available to the Company, any discount or other allowance in respect of quantities of goods of ordered which is or would be otherwise allowed to the Customer shall be recalculated to the level of goods or services actually accepted by the Customer.
- 13. WITHHOLDING DELIVERY**
- The Company shall be entitled to withhold delivery of any Goods if payment in respect of previous deliveries of Goods is due and outstanding.
- 14. EFFECTING DELIVERY**
- (a) Unless otherwise agreed at the time the Order is received delivery will be effected by despatch using a reputable carrier service as soon as is practicable to the address specified by the Customer at the time of the order if different to the Customer's normal invoicing address.
- (b) Carriage charges will be passed on to the Customer unless previously agreed otherwise.
- (c) If the Customer should specify at the time of placing the order that they will effect collection of the Goods the Customer will be notified in the most practical manner when the Goods are available for collection. If having notified the Customer that the Goods are available for collection the risk in the Goods will pass to the Customer 14 days later if the Customer has not collected the Goods.
- (d) The Customer will indemnify the Company against any and all storage and handling charges and other costs and expenses incurred by the Company in respect of any Goods not collected by the Customer in respect of 14(c).
- (e) Where risk in the Goods has passed to the Customer the Company shall be under no liability whatsoever in respect of the goods.
- 15. INSTALMENTS**
- The Company shall at its sole discretion be entitled to make delivery of the Goods in one or more instalments and without prejudice to the provision any any of these Conditions each delivery of an instalment of the Goods shall form a severable part of the Contract.
- 16. CANCELLATION OF ORDERS AND RETURN OF THE GOODS**
- (a) The Customer shall be entitled to cancel any Order for the Goods only with prior written consent of the Company. The Company may as a condition of the consent impose such charge for cancellation as it shall consider appropriate including a charge for cancellation equivalent to the costs incurred by the Company in carrying out the Customer's Order up to the date of cancellation comprising the cost to the Company of all items and materials ordered, manufactured or supplied by the Company in connection therewith; in the event of cancellation by the Customer without the Company's written consent the Customer shall remain liable to pay the Company the full price of the Goods and the Company shall be entitled to retain any part thereof received. If work(s) on an Order is suspended on the Customer's instructions or due to a lack of instructions the Company shall be entitled to treat such circumstances as a unilateral cancellation by the Customer.
- (b) The Customer shall not return the Goods to the Company (save under 21 below) without the prior written consent of the Company. Authorisation to return Goods must be requested in writing whereupon a Returns Authorisation number may be issued to the Customer.
- (c) It is entirely at the Company's discretion to authorise the return of the Goods and the Company reserves the right to reject the return of Goods if upon receipt by the Company they are in the opinion of the Company to be in unsaleable condition. The condition of the Goods includes the state of the outer shrinkwrap packaging.
- (d) The Company reserves the right to charge 15% restocking and handling fee upon the authorised return of re-saleable goods.

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### 17. TITLE IN THE GOODS

- (a) The legal title to the goods shall not pass to the Customer until all sums due or payable by the Customer to the Company whether in respect of the Goods or otherwise howsoever shall have been received by the Company. Until such time the Customer shall as bailee of and in a fiduciary capacity for the company and shall further:
- (i) store the Goods separately from any other goods and so as to be identifiable as the property of the Company;
  - (ii) be responsible for any loss or damage to the Goods howsoever caused;
  - (iii) except as provided in sub-clause (b) hereof not to sell, pledge, assign, charge or otherwise dispose of the goods or any interest therein.
- (iv) deliver up the goods to the Company at any time on demand and/or permit the Company, its servants or agents at any time without notice to enter upon the the Customer's premises and retake possession of the Goods.
- (b) The Customer shall be entitled to sell in the ordinary course of its business any of the Goods in which title shall not have passed to it on condition that the Customer shall hold on trust for and (on demand made by the Company) pay or transfer to the Company the proceeds of such sale and all claims that the Customer may have against its purchaser as the result of such sale.
- (c) The Customer (if so requested by the Company) and any liquidator or receiver of the assets of the Customer shall pay into a separate bank account for the sole benefit of the Company all sums received in respect of any sale by the Customer or the liquidator or receiver of any of the goods in which title has not passed to the customer.

### 18. LIEN

- (a) The Company shall have a general lien over any of the Customer's goods or property in its possession from time to time for all sums due from Customer to the company.
- (b) On the expiration of seven days notice in writing to the customer the Company shall be entitle to sell or otherwise dispose of any of the Customer's goods or property over which it has a lien and to apply any proceeds received towards payment of such sums due.

### 19. PERFORMANCE DATA

Any performance figures quoted or referred to in any specification or other document used in concluding a contract , are estimates only, based on assumed conditions in a well managed ofce with experienced, adequate and efcient operators and appropriate services, and proper use of satisfactory materials.

### 20. SPECIFICATION

The Company reserves the right on the sale of any Equipment to make before delivery any alteration to or departure from the specification or design of the Equipment details overleaf provided that it shall not to a material extent adversely affect the performance of the Equipment or the quality of the workmanship or the materials used. All specifications, drawings and technical documents issued by the Company either before or after conclusion of the contract are issued solely for the Customer's use in connection with the Equipment and shall not be copied, reproduced or communicated to any third party without the Company's express consent in writing.

### 21. WARRANTY

- (a) With respect to equipment consumables and hardware the Company will at its sole option repair, replace or grant a credit in respect of any of the Goods which are found to be defective in materials or workmanship provided that the Customer gives written notice to the company setting out the nature of any such defect the serial number of the goods supplied the invoice number (if any) and the date within:
- (i) one year of delivery of the goods to the Customer in the case of electronic assemblies in assembled form; or
  - (ii) three months of delivery of the Goods to the Customer in the case of electromechanical assemblies (such as disks, fans, diskette drives and other rotating mechanisms) in assembled for; or
  - (iii) one month of delivery of the goods to the Customer in any other case.
- (b) With respect to software the Company warrants only that the programs, utilities and data supplied will be on usable media and at its sole option will replace or grant credit in respect of such goods found to be defective within 60 days of the delivery of the goods.
- (c) The foregoing warranty shall not cover repairs or damage necessitated or caused otherwise than be defects in materials or workmanship and without prejudice to the generality of the foregoing shall not cover repairs or damage necessitated or caused by fair wear and tear or by improper use installation or repair or by neglect, alteration, accident or deliberate damage.
- (d) The foregoing warranty shall not apply to any replacement parts supplied by the Company under this warranty for the Goods instead the warranty period applicable to the original Goods shall apply.
- (e) The foregoing warranty shall not be available for the benefit of any person other than the customer.
- (f) Where only part of the Goods is found to be defective the company shall only be under an obligation to repair or grant a credit in accordance with the foregoing warranty in respect of that part found to be defective.
- (g) The Customer shall give access and full co-operation to the Company to carry out its obligations under this warranty and in particularly without limited the generality of the foregoing shall if so requested by the Company return the goods the subject of this warranty to the Company at the Customer's expense.
- (h) The cost of returning to the Customer any Goods found to be defective and replaced or repaired by the Company under the foregoing warranty shall be borne by the Company.
- (i) Any Goods returned to the Company and replaced shall become the Company's property.

### 22. CUSTOMERS' REMEDIES

- (a) The Company's entire liability and the Customer's sole remedies in respect of any "Common Breach" shall be as set out in these Conditions.
- (b) "Common Breach" shall mean any breach (however fundamental) or any terms (however fundamental) of the Contract by any default, act, omission or statement in connection with or in relation to the Goods by the Company, its employees or agents in respect of which the Company is legally liable to the Customer.
- (c) This condition 22 shall not confer any rights or remedies on the Customer to which it would not otherwise be entitled and shall not affect the Customer's duty to mitigate any damage.
- (d) The Company does not exclude liability for:
- (i) death or personal injury to the extent that it is caused by negligence of the Company its employers or agents; or
  - (ii) breach of any of the undertakings as to title implied into the Contract by Section 12 of the Sale of Goods Act 1979; or
  - (iii) direct physical damage to tangible property of the Customer to the extent that it is caused by the negligence of the Company its employees or agents (subject to Conditions 22(f) and (g) below).
- (e) Subject to Condition 21 hereof the Customer's remedies against the Company for any "Company Breach" shall be strictly limited to damages which shall be subject to the limitations of amount and type set out in this Condition 22.
- (f) The damages for which the Company may be liable to the Customer in respect of any one "Company Breach" (and a series of events of accidents arising out of the same "Company Breach" shall constitute one "Company Breach") shall not apply to any liability of the Company referred to in Condition 22 (d) (i) and (ii) above.
- (g) The Customer agrees that Section 32(3) of the Sale of Goods Act 1979 shall not apply to Goods sent by the Company.
- (h) Except as provided in Conditions 22 (d) (i) and (ii) above in no event shall the Company be liable for the following loss or damage howsoever caused and even if foreseeable by or in the contemplation of the Company:
- (i) Economic loss which shall include loss of profit business revenue goodwill and anticipated savings.

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- (ii) Damages in respect of special indirect or consequential loss or damage.
  - (iii) Any claim made against the customer by any other party.
  - (h) Except in respect of the liability of the Company referred to in Conditions 22 (d) (i) and (ii) above no action whatsoever (regardless of forms of procedure) arising out of the contract or in connection with the Goods may be brought by the Customer more than six months after the Customer becomes aware of should reasonably become aware of the facts constituting the course of action.
23. TELECOMMUNICATIONS EQUIPMENT  
When the Equipment supplied by the Company is to be used in conjunction with British Telecom lines or apparatus then the following additional conditions shall apply:-
- (i) British Telecom shall have the right to require modifications to be carried out to the Equipment which is already installed and in use. Any modifications required will be carried out at the Customer's expense.
  - (ii) In no event shall the Company be liable for damage, loss or injury to British Telecom equipment or personnel in connection with or arising out of the Customer's act of neglect.
24. FITNESS FOR PURPOSE  
In no event shall the Company be liable in respect of any claim arising out of any of the goods proving not to be fit and suitable for any purpose other than that notified to the Company by the Customer and stated in the Customer's Order or reasonably understood by the Company to be the purpose for which the Goods would be used.
25. FORCE MAJEURE AND FRUSTRATION  
The Company shall:-
- (i) In any event not be liable for loss or damage; and
  - (ii) Be entitled to cancel or rescind the contract; if the performance of its obligations under the contract is in any way adversely affected by any cause whatsoever, beyond the Company's control including but not limited to the delays of default of suppliers of the default of any sub-contractor, war, strike, lock-out, trade dispute, food, accident to plant or machinery, shortage of materials or labour.
26. PACKING MATERIALS  
The Customer shall reimburse the Company the cost of any cases and containers in which the Goods are delivered to the Customer.
27. DEFAULT OR INSOLVENCY OF THE CUSTOMER  
If the Customer commits any breach of the Contract or suffers any distress or execution upon its property or assets which is not paid out or discharged within fourteen days or has a receiver appointed over its assets or an incumbrancer take possession of any of its property or if a resolution or petition to wind up the Customer is passed or presented or the Customer ceases to threaten to cease to carry on business the Company shall have the right (without prejudice to any other remedies) to cancel the contract and to withhold or suspend delivery of the goods. In the event of such cancellation by the Company the Customer shall indemnify the Company against all loss (including loss of profit) costs (including costs of labour and materials) and all expenses suffered by the Company by reason of the cancellation.
28. GENERAL
- (a) The Company's liability under any contract is limited to making good defects or failures to the extent provided in Condition 8 hereof and subject thereto the Company shall not in any circumstances be liable for any loss, damage or expense (including indirect and consequential loss resulting directly or indirectly from the negligent acts or default of the Company, its servants, agents or suppliers or from anything supplied or specified by the Customer or from the failure to or delay in supply of any such thing. The Customer shall reimburse the Company for all costs, expenses, losses and damages arising directly or indirectly from the use of or late/non-delivery of anything supplied or specified by the Customer.
  - (b) The Customer shall not rely upon any representations as to the Equipment or its fitness for any particular purpose unless made by the Company in writing.
29. LAW  
This contract shall be subject to and construed in accordance with the laws of England in all respects as an English contract subject to the jurisdiction of the English Courts. The uniform laws of international sales shall not apply.