

Terms & Conditions of Sale

Definitions

In these conditions, unless the context otherwise requires:

- 1.1 "The Company" means "21Plus Telecom Limited"
- 1.2 "The Customer" means the customer of the Company who purchases the Goods from the Company.
- 1.3 "The Contract" means any contract for the sale of the goods by the Company to the Customer, incorporating these Conditions.
- 1.4 "The Goods" means any goods forming the subject of the Contract including parts and components of materials incorporated within them.

Quotation/Proposal

- 2.1 Quotations/proposals by the Company, unless stated otherwise in them or unless previously withdrawn by the Company, shall be open for acceptance for a period of 30 days from the date of quotation/proposal.

Existence of Contract

- 3.1 No Contract shall come into existence until the Customer's order however given is accepted by the earliest of (a) the Company's written acceptance (b) delivery of the Goods, and (c) the Company's invoice for the price.
- 3.2 These Conditions shall be incorporated into the Contract to the exclusion any other terms and conditions stipulated or referred to by the Customer.
- 3.3 No variations or amendments to the Contract shall be binding on the Company unless accepted and confirmed by it in writing.

Prices

- 4.1 Prices are ex-works and exclude freight, insurance, delivery charges, VAT and other taxes and duties. Prices invoiced are calculated in respect of the quantity of Goods actually delivered irrespective of the quantity in respect of which any quotation/proposal was issued.
- 4.2 The Company shall have the right in respect of any uncompleted portion of the Contract to adjust its prices for any increase in the price of materials, parts, labour, transport, changes in work or delivery schedules or quantities or costs of any kind arising for any reason after the date of Contract.

Payment

- 5.1 Payment is to be made in accordance with the terms of the Sales Order Form, and time for payments shall be of the essence of the Contract. No terms/facilities for delayed payment will be offered unless agreed by the Company in writing. Without prejudice to any other right of the Company, if the Customer fails to pay the invoice price by the due day the Customer shall not be allowed any discount given in that invoice, shall pay interest on any overdue amount from the date on which payment was due to that on which it is made whether before or after judgment on a daily basis at a rate of 4% above the base rate from time to time quoted by The Bank of Scotland, and shall reimburse to the Company all costs and expenses including legal costs incurred in the collection of any overdue amount.

Title

- 6.1 For the purpose of Section 12 of the Sale of Goods Act 1979 the Company shall transfer to the Customer such title or rights in respect of the Goods as the Company has and if the Goods are purchased by the Company form a third party shall transfer to the Customer only such title or rights as that party had and has transferred to the Company.
- 6.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Company and shall not pass to the Customer until the amount due to the Company in respect of the Goods has been paid in cleared funds and received in full.
- 6.3 Until title passes the Customer shall hold the Goods as bailee for the Company, and shall store or mark them so that they can at all times be identified as property of the Company.
- 6.4 The Company shall be able at any time before title passes to repossess the Goods and dismantle them without being liable for any damaged caused by doing so and use or sell all or any of the Goods and so terminate without any liability to the Customer the Customer's rights to use, sell or otherwise deal in them for the purpose of exercising the above rights to enter into any premises of the Customer.
- 6.5 Until title passes the entire proceeds of sale of the Goods shall be held in trust for the Company and shall not be mingled with other monies or paid into any overdrawn bank account and shall be identifiable at all times as the Company's money.
- 6.6 The Company shall be entitled to maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Customer.

Risk Delivery and Performance

- 7.1 Goods are delivered to the Customer when the Company makes them available to the Customer or to any agent of the Customer or to any carrier, who shall be the Customer's agent (whoever pays his charges), at the Company's premises or any other delivery point agreed by the Company.
- 7.2 Risk in the Goods passes to the Customer when they are delivered to the Customer.
- 7.3 The Company may at its discretion deliver the Goods by instalments at any sequence.
- 7.4 Where the Goods are delivered by instalments each instalment shall be deemed to be the subject of a separate contract and no default or failure by the Company in respect of any one or more instalments shall vitiate the contract in respect of the goods previously delivered or undelivered Goods.
- 7.5 The Company may deliver to the Customer and the Customer shall accept in satisfaction of the Contract a lesser number of the Goods ordered.
- 7.6 Any dates quoted by the Company for the delivery of Goods are approximate and shall not form part of the Contract and the Customer acknowledges that in the performance expected of the Company no regards shall be paid to any quoted delivery dates.
- 7.7 If the Customer fails to take delivery of the Goods or any part of them when they are ready for delivery or fails to provide any instructions, documents, licenses, consents or authorizations required to enable the Goods to be delivered on the due date the Company shall be entitled upon given written notice to the Customer to store or arrange for the storage of the Goods and then:
 - 7.7.1 risk in the Goods shall pass to the customer,
 - 7.7.2 delivery shall be deemed to have taken place, and
 - 7.7.3 the Customer shall pay to the Company all costs and expenses including storage and insurance charges arising from its failure.
- 7.8 The Company shall not be liable for any penalty, loss, injury, damage or expense arising from any delay or failure in delivery or performance from any cause at all, nor shall any such delay or failure entitle the Customer to refuse to accept delivery of performance or to repudiate the Contract.

Claims Notification

- 8.1 Any claims for the non-delivery of any Goods shall be notified in writing by the Customer to the Company within 10 days of the date of the Company's invoice.
- 8.2 Any claim that any Goods have been delivered damaged, are not of the correct quantity or do not comply with their description shall be notified by the Customer to the Company within 7 days of their delivery. The warranty period is that given by the manufacturer. If a maintenance agreement with the Company exists the conditions of that contract will apply.
- 8.3 Any alleged defect in the Goods shall be notified by the Customer to the Company within 7 days of the delivery of the Goods or in the case of any defect in the Goods which is not reasonably apparent on inspection within 7 days of the defect coming to the Customer's attention.

Installation

- 9.1 Where agreed as part of the Contract the Company shall assemble, install and commission the Goods at the Customer's site.
- 9.2 It is the responsibility of the Customer to provide adequate working conditions for the installation of the Goods to take place and the Customer shall take all such steps as may be necessary to ensure the safety of any of the Company's representatives who visit any premises of the Customer.
- 9.3 It is the responsibility of the Customer to provide adequate permanent mains supply for the Goods ordered.
- 9.4 The Customer shall pay to British Telecom or other Public Telecommunications Network Operator all costs relating to the installations, line, network and inspection charges.

Scope of Contract

- 10.1 Under no circumstances shall the Company have any liability of whatever kind for:
 - Any defects in the Goods resulting from wear and tear, accident, improper use or neglect by the Customer or use by the Customer otherwise than in accordance with the instructions or advice of the Company or the manufacturer of the Goods.
 - Any goods which have been adjusted, modified or repaired otherwise than by the Company.
 - The suitability of any Goods for any particular purpose or use under specific conditions whether or not the purpose or conditions were known or communicated to the Company.
 - Any substitution by the Company of any material or components not forming part of any specification of the Goods agreed in writing by the Company.
 - Any description, illustration, figures as to performance, drawings and particulars of weights and dimensions submitted by the Company contained in the Company's catalogue price lists or elsewhere since they are merely intended to represent the general idea of the Goods and do not form a part of the Contract nor are to be treated as representations.
 - Any technical information, recommendations statements, or advice furnished by the Company, its servants or agents not given in writing in response to a specific written request from the Customer before the Contract is made, or
 - Any variations in the quantities or dimensions of any Goods or changes of their specifications or substitution of any materials or compounds if the variation or substitution does not materially affect the characteristics of the Goods and the substituted materials are of a quality equal or superior to those originally specified.

Extent of Liability

- 11.1 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
- 11.2 Except in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract (except in the case of fraud on the part of the Company), for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or any

failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Customer, and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

- 11.3 Each party acknowledges that, in entering into the Contract, it does not rely on any representation, warranty or other provision except as expressly provided in the Contract, any accordingly all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979 pursuant to condition 6.1) are, to the fullest extent permitted by law, excluded from the Contract, but nothing herein shall affect the liability of either party for fraudulent misrepresentation.
- 11.4 If the customer establishes that any Goods have not been delivered, have been delivered damaged, are not of the correct quantity or do not comply with their description and notified the Company thereof in accordance with clause 8, the Company shall at its options:
 - 11.4.1 replace with similar goods any Goods which are missing, lost or damaged or do not comply with their description, or
 - 11.4.2 allow the Customer credit for the invoice value of the said Goods, or
 - 11.4.3 repair any damaged Goods,

In which case the Company shall have no further liability to the Customer in respect thereof.

- 11.5 If the customer establishes that any Goods are defective and notifies the Company thereof in accordance with clause 8 the Company shall at its options:
 - 11.5.1 replace the defective Goods with similar goods, or
 - 11.5.2 repair any defective Goods, or
 - 11.5.3 allow the Customer credit for the invoice value of the said Goods, orto the extent that the Goods are not of the Company's manufacture assign to the Customer (so far as the Company is able to do so) any warranties given by the manufacturer of the Goods to the Company, in which case the Company shall have no further liability to the Customer in respect thereof.
- 11.6 The delivery of any repaired or replacement goods shall be at the Company's premises or other delivery point specified for the original Goods.
- 11.7 Where the Company is liable in accordance with this condition in respect of only some or part of the Goods no set-off or other claim shall be made by the Customer against or in respect of the other Goods or the other parts of the Goods.
- 11.8 No claim against the Company shall be entertained for any defect in the Goods arising from any design or specification provided or made by the Customer if any adjustments, alterations or other work have been undertaken to the Goods by any person other than the Company.
- 11.9 The Company shall not be liable where any Goods, the price of which does not include carriage, are lost or damaged in transit and all claims by the Customer shall be made against the carrier. Replacements for such lost or damaged Goods will, if available, be supplied by the Company at the prices ruling at the date of dispatch.
- 11.10 The Company is not responsible for any loss which may occur from the act, neglect or default of any network providers or caused by equipment associated with the Goods.

General

- 12.1 The Company may sub-contract the performance of the Contract in whole or part.
- 12.2 The Contract is between the Company and the Customer as principals and shall not be assignable by the Customer without the express written consent of the Company.
- 12.3 The Company shall have a lien on all Customer's property in the Company's possession for all sums due at any time from the Customer and shall be entitled to use, sell or dispose of that property as agent for and at the expense of the Customer and apply the proceeds in and towards the payment of such sums on 28 days notice in writing to the Customer. Upon accounting to the Customer for any balance remaining after payment of any sums due to the Company and the cost of sale and disposal, the Company shall be discharged of any liability in respect of the Customer's property.
- 12.4 The Company may at its discretion suspend or terminate the supply of any Goods if the Customer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or any other agreement with the Company, becomes insolvent, makes an arrangement with its creditors, suffers an administration order, has a receiver appointed over its business or assets, is compulsorily or voluntarily wound-up or ceases, or threatens to cease, to carry on business, or the Company bona fide believes that any of those events may occur, and in the case of termination the Company shall be entitled to forfeit any deposit paid.
- 12.5 If the Goods are manufactured in accordance with any design or specification provided or made by the Customer, the Customer shall indemnify the Company from and against all claims whether actual or alleged that the design or specification infringes the rights of any third party.
- 12.6 All tools, patents, materials, drawings, specifications and other data provided by the Company shall remain its property and all technical information (patentable or unpatentable), copyright, registered designs, design rights and all other intellectual property rights arising from the execution of any orders shall become the property of the Company.
- 12.7 The Contract and its subject matter are confidential and shall not be disclosed or used for any unauthorized purpose.
- 12.8 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 12.9 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 12.10 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 12.11 The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

Force Majeure

- 13.1 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from, or delayed in, the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental action, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

Communication

- 14.1 All communications between the parties about this Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission:
 - 14.1.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company, or
 - 14.1.2 (in the case of the communications to the Customer) to the registered office of the Customer (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of this Contract or such other address as shall be notified to the Company by the Customer.
- 14.2 Communications shall be deemed to have been received:
 - 14.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays, and bank and public holidays) after posting (exclusive of the day of posting),
 - 14.2.2 if delivered by hand, on the day of delivery,
 - 14.2.3 if sent by facsimile transmission on a working day prior to 4.00pm, at the time of transmission and otherwise on the next working day.

Law and Construction

- 15.1 This Contract shall be governed by and construed in accordance with English Law and the parties submit to the non-exclusive jurisdiction of the English courts.
- 15.2 All headings contained herein are for ease of reference only and shall not affect the construction on interpretation of the Contract.