



Standard Terms and Conditions of Contract of Sale of Goods

1. DEFINITIONS

- Business Day** - a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;
- Contract** - the contract between the Seller and the Purchaser for the sale and purchase of the Goods, comprised of the Order and these Conditions;
- Purchaser** - the person or firm who purchases the Goods from the Seller;
- Force Majeure Event** - an event or circumstance beyond a party's reasonable control including but not limited to acts of God, government actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, drought, lockouts, strikes, or other labour disputes or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials;
- Goods** - the goods (or any part of them) listed in the purchase order form (for machines) or in the quote (for parts and service) as set out in the Order;
- Order** - the attached Purchaser's completed purchase order form for the Goods, or the Purchaser's written acceptance of the Seller's quotation, as the case may be;
- Specification** - any specification for the Goods that is agreed by the Purchaser and the Seller;
- Seller** - Bell Equipment UK Limited (registered in England and Wales with company number 03591436);
- Warranty Policy** - the Seller's warranty policy in force as at the date of the Contract, a copy of which is available on request by the Purchaser.

2. BASIS OF CONTRACT

- These Conditions apply to the Contract to the exclusion of any other terms that the Purchaser or any third party seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Seller may change these Conditions at any time. The version of these Conditions that is current when a Contract is concluded will apply to that Contract.
- The Seller has the right to require the Purchaser to sign an additional agreement of sale, dependent on the risks associated with the sale of the Goods listed in the Order. Any such agreement shall be read in conjunction with the Order and these Conditions.
- The Purchaser is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- The Seller shall not be obliged to execute the Order until such time as it has been accepted under the signature of a Relevant Manager of the Seller at the foot of these Conditions, at which point the Contract shall come into existence.
- GOODS**
- The Goods are as set out in the Order and as modified by any applicable Specification and the Seller reserves the right to amend such Specification if required by any applicable statutory or regulatory requirements.
- Any samples, drawings or advertising produced by the Seller are for the sole purpose of giving an approximate idea of the Goods and shall not form part of the Contract.

4. DELIVERY

- Delivery of the Goods is deemed to have occurred when the Goods are collected by the Purchaser and leave the Seller's premises. Unless otherwise specified, all delivery costs, including transportation and insurance arrangements and costs must be paid by the Purchaser.
- If the parties agree that the Goods are to be delivered to the Purchaser, delivery shall be deemed to have occurred on the tendering of the Goods at the agreed delivery point and off-loading of the Goods at the delivery point is the responsibility of the Purchaser
- Unless otherwise agreed, any carrier shall be deemed to be the agent of the Purchaser and the Seller does not hold itself liable for any loss or damage caused during transportation by a carrier. The Seller shall not be responsible for any loss or damage caused during transportation of the Goods.
- Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Purchaser's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Purchaser in obtaining replacement goods of similar description and quality in the cheapest market available (less the price of the Goods, if such payment has not yet been made to the Seller). The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Purchaser's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- If the Purchaser fails to accept delivery of the Goods, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract:
- 4.6.1. delivery of the Goods shall be deemed to have been completed at 5pm on the date of delivery; and
- 4.6.2. the Seller shall store the Goods until delivery takes place, and charge the Purchaser for all related costs and expenses (including storage, transport and insurance) incurred during the period until the Purchaser accepts delivery of the Goods.
- If 10 Business Days after the day on which the Seller notified the Purchaser that the Goods were ready for delivery the Purchaser has not accepted delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Purchaser for any excess over the price of the Goods or charge the Purchaser for any shortfall below the price of the Goods.
- The Seller may supply the Goods by instalments which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Purchaser to cancel any other instalment.

5. QUALITY

- The Seller warrants that on delivery the Goods shall:
- 5.1.1. conform in all material respects with their description and any applicable Specification; and
- 5.1.2. in the case of new Goods, be free from material defects in design, material and workmanship in accordance with the Warranty Policy;
- 5.1.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 5.1.4. be subject to the Purchaser (at the Purchaser's expense) having obtained all necessary permits for the ownership and operation of the Goods, be fit for any purpose held out by the Seller.
- Subject to Clause 5.3, if:
- 5.2.1. the Purchaser gives notice in writing to the Seller within a reasonable time (and in accordance with the Warranty Policy) of discovery that some or all of the Goods do not comply with the warranty set out in Clause 5.1;
- 5.2.2. the Seller is given a reasonable opportunity of examining such Goods; and
- 5.2.3. the Purchaser (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Seller's cost,
- the Seller shall, if it determines in its sole discretion that the Goods are defective, the Seller shall at its option, repair or replace the defective Goods solely in accordance with the Warranty Policy
- The Seller shall not be liable for the Goods' failure to comply with the warranty set out in Clause 5.1 in any of the following events:
- 5.3.1. the Purchaser makes any further use of such Goods after giving notice in accordance with Clause 5.2;
- 5.3.2. the defect arises because the Purchaser failed to follow the Seller's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 5.3.3. the defect arises as a result of the Seller following any drawing, design or Specification supplied by the Purchaser;
- 5.3.4. the Purchaser alters or repairs such Goods without the written consent of the Seller;
- 5.3.5. the Goods (or any part of the Goods) are not manufactured by the Seller, in which case any warranty or guarantee shall be limited to the extent of the warranty or guarantee given by the manufacturer of such Goods;
- 5.3.6. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 5.3.7. the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- Except as provided in this Clause 5, the Seller shall have no liability to the Purchaser in respect of the Goods' failure to comply with the warranty set out in Clause 5.1.
- The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.
- TITLE AND RISK**
- The risk in the Goods shall pass to the Purchaser on delivery of the Goods.
- Title to the Goods shall not pass to the Purchaser until the Seller receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Seller has supplied to the Purchaser in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.
- Until title to the Goods has passed to the Purchaser, the Purchaser shall:
- 6.3.1. store the Goods separately from all other goods held by the Purchaser so that they remain readily identifiable as the Seller's property;
- 6.3.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 6.3.4. notify the Seller immediately if it becomes subject to any of the events listed in Clause 8.1
- 6.3.5. in the case of a Purchaser storing the Goods at a leased premises (until title has passed in accordance with clause 6.2) and the Purchaser's landlord commencing commercial rent arrears recovery, notify the Purchaser's landlord of the provisions of clause 6.2; and
- 6.3.6. give the Seller such information relating to the Goods as the Seller may require from time to time.
- If before title to the Goods passes to the Purchaser the Purchaser becomes subject to any of the events listed in Clause 8.1, then, without limiting any other right or remedy the Seller may have the Seller may at any time:
- 6.4.1. require the Purchaser to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
- 6.4.2. if the Purchaser fails to do so promptly, enter any premises of the Purchaser or of any third party where the Goods are stored in order to recover them.

7. PRICE AND PAYMENT

- The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the Purchaser acknowledges that the price shall be as set out in the Seller's published price list in force as at the date of delivery. The Purchaser acknowledges that a certificate signed by a Relevant Manager of the Seller shall evidence such price.
- The Seller may, by giving notice to the Purchaser at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- 7.2.1. any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 7.2.2. any request by the Purchaser to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- 7.2.3. any delay caused by any instructions of the Purchaser or failure of the Purchaser to give the Seller adequate or accurate information or instructions.
- Payment for the Goods must be made on or in advance of delivery to the bank account nominated in writing by the Seller (or by such other payment method as the Seller shall agree with the Purchaser).
- Time is of the essence in respect of all payments to be made by the Purchaser.
- All payments shall be made in the currency of the sales invoice, free of bank exchange and other charges, at the Seller's sales office nearest the point of delivery or in any other manner as may be agreed upon between the parties, including, but not limited to, electronic funds transfer.
- If the Purchaser fails to make any payment due to the Seller (under the Contract or otherwise) by the due date for payment, then the Purchaser shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Purchaser shall pay the interest together with the overdue amount.
- The Purchaser shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Purchaser against any amount payable by the Seller to the Purchaser.
- The terms and conditions of any sale other than for cash consideration shall be recorded in writing and signed by the Purchaser on request by the Seller. Such sale shall remain subject to these Conditions (to the extent not inconsistent with the Consumer Credit Act 1974 (as amended)).
- The Purchaser warrants that any goods traded in, in part satisfaction of the purchase price, are owned by the Purchaser free of any encumbrance or lien of any nature whatsoever.
- TERMINATION**
- Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Purchaser if:
- 8.1.1. the Purchaser commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of the Purchaser being notified to do so;
- 8.1.2. the Purchaser takes any step or action in connection with its entering administration, provisional liquidation (other than for arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 8.1.3. the Purchaser suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 8.1.4. the Purchaser's financial position deteriorates to such an extent that in the Seller's opinion the Purchaser's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Purchaser and the Seller if the Purchaser becomes subject to any of the events listed in Clause 8.1.1 to Clause 8.1.4, or the Seller reasonably believes that the Purchaser is about to become subject to any of them, or if the Purchaser fails to pay any amount due under this Contract on the due date for payment.
- Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Purchaser if the Purchaser fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment.
- On termination of the Contract for any reason the Purchaser shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices (together with interest) and all costs reasonably incurred by the Seller in pursuing such outstanding unpaid invoices.
- Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
- 9. LIMITATION OF LIABILITY**
- Nothing in these Conditions shall limit or exclude the Seller's liability for:
- 9.1.1. death or personal injury caused directly by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 9.1.2. fraud or fraudulent misrepresentation;
- 9.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 9.1.4. defective products under the Consumer Protection Act 1987; or
- 9.1.5. any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- Subject to Clause 9.1:
- 9.2.1. the Seller shall under no circumstances whatsoever be liable to the Purchaser, whether in contract, tort (including negligence), or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 9.2.2. the Seller's total liability to the Purchaser in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £10,000,000 of the price of the Goods.

10. FORCE MAJEURE

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure results from a Force Majeure Event. If the period of delay or non-performance continues for [21 days], the party not affected may terminate this Contract by giving 7 days' written notice to the affected party.

11. GENERAL

Assignment and other dealings.

- 11.1.1. The Seller may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 11.1.2. The Purchaser may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Seller.

Entire agreement.

- 11.2.1. This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 11.2.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

Variation.

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

Waiver.

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- 11.4.1. waive that or any other right or remedy; nor
- 11.4.2. prevent or restrict the further exercise of that or any other right or remedy.

Severance.

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

Notices.

- 11.6.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its address as provided for by the Purchaser on the Order, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- 11.6.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 11.6.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- 11.6.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

Third party rights.

No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

Governing law.

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Jurisdiction.

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

Signed by []

For and on behalf of the Purchaser

Date:

Signed by []

For and on behalf of the Seller

Date:

Signed by []

as Relevant Manager
For and on behalf of the Seller