

TROJAN TELECOM

TERMS & CONDITIONS

any reason whatsoever unenforceable according to its terms, the others shall in full force and effect.

1. These Conditions

- 1.1 In these terms and conditions the word 'Trojan' means Trojan Telecom Company limited, the words 'the customer' shall mean the person, firm or company purchasing or agreeing to purchase goods or services from Trojan, the words 'these Conditions' shall mean the terms and conditions of sale set out herein, the word 'Goods' shall mean the subject matter of the contract including (but not limited to) all equipment, spare parts or other goods, the word 'Services' shall mean repairs or services provided to the customer, the word 'Warranty' shall mean the warranty supplied by the manufacturer to the customer by Trojan and the word 'order' shall mean a purchase order in respect of goods or services issued by the customer to Trojan on the customer's official purchase order form, together with all documents referred to in it.
- 1.2 Trojan's quotations are not binding on the Customer and a contract (the Contract) will only come into being upon acceptance by Trojan of the Order and the following Conditions shall be deemed to be incorporated in the contract.
- 1.3 No cancellation of an Order by the Customer shall be valid unless made in writing and accepted in writing by Trojan.
- 1.4 The Contract will be subject to these Conditions. All terms and conditions appearing or referred to in the Order or otherwise stipulated by the Customer shall have no effect. No variation of these Conditions is permitted unless expressly accepted in writing by a Trojan Director.

2. The Goods and Services

- 2.1 Subject to the warranty contained in Clause 6.1, all descriptions, drawings, and particulars relating to the goods or services in any catalogues, leaflets, brochures or other documents are for illustrative purposes only and do not form part of the agreement between Trojan and the Customer. All representations as to performance of the goods are based on information supplied by the manufacturer of the goods and relate to their performance in normal conditions and when used correctly.
- 2.2 Unless otherwise expressly agreed, goods supplied will be in accordance with manufacturer's normal designs and specifications current to the date of manufacturer or delivery. The supply by Trojan of Goods or Services differing from any contractual or pre-contractual specifications or descriptions shall not be in breach of the agreement between Trojan and the Customer insofar as the goods or services referred to in such specifications or descriptions.

3. Delivery and Risk

- 3.1 The time for delivery of the goods and performance of the services is not of the essence. Dates agreed for delivery or performance are estimates only and a failure by Trojan to comply with them shall not be a breach of these Conditions.
- 3.2 Unless the contract otherwise stipulates, risk in the goods passes to the Customer when the goods are dispatched from Trojan's premises and Trojan accepts no responsibility for any damage or loss in transit. Claims for damage or loss in transit should be made on the carrier and any conditions imposed by the carrier in relation to claims for damage or loss in transit should be complied with.
- 3.3 Where the customer has arranged for the collection of the goods, risk will pass on the date that Trojan has notified the customer that the goods are ready for collection.
- 3.4 The Customer is required to inspect the goods on receipt and to notify Trojan of any defects or complaints within 24 hours of receipt.

4. Property in the Goods

- 4.1 Notwithstanding that risk in the goods passes to the Customer in accordance with Clause 3.2 and 3.3 of these Conditions title to the goods (whether separate and identifiable or incorporated in or mixed with other goods) shall remain with Trojan until payment in full has been received by Trojan.
 - 4.1.1. for those Goods;
 - 4.1.2. for any other goods supplied to the customer by Trojan; and
 - 4.1.3. for all monies due from the Customer to Trojan on any account, and the Customer acknowledges that until such payment is made in full it is in possession of the goods solely as a fiduciary of Trojan.
- 4.2 The Customer is licensed by Trojan to use or to agree to sell the goods provided that the entire proceeds of any sale of such goods are held in trust for Trojan and are not mixed with other monies or paid into an overdrawn bank account and shall at all times be identifiable as Trojan's money.
- 4.3 Any resale by the Customer of goods in which property has not passed to the Customer shall (as between Trojan and the Customer only) be made by the Customer as agent for Trojan.
- 4.4 Until title to the goods passes to the Customer under clause the goods shall be kept separate and distinct from all other property of the Customer and of third parties and in good condition and shall be stored in such way as to be clearly identifiable as belonging to Trojan and the Customer will not cause or permit or suffer any labels, badges, serial numbers or other means of identification of the goods to be removed or obscured.
- 4.5 At any time before title to the goods passes to the Customer (whether or not payment to Trojan is then overdue or the Customer is otherwise in breach of any obligation to Trojan), Trojan may (without prejudice to any of its rights):
 - 4.5.1. for the purpose of recovering all or any parts of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored (or authorise others to do so) and may repossess the same which the Customer hereby authorises;
 - 4.5.2. require delivery up to it of all or part of the goods.
- 4.6 Each clause and sub-clause of this clause 4 is separate, severable and distinct and, accordingly, in the event of any of them being for

5. Price and Payment

- 5.1 Unless otherwise expressly agreed, the price payable for the goods and services shall be the price shown in the current price list of Trojan at the date of despatch of the goods from Trojan's premises or the date of performance of service.
- 5.2 In other cases the price stated in the contract is based on the cost to Trojan of raw materials, fuel and power, transport and labour and all other costs at the date of acceptance of the order or quotation (whichever is earlier). If at the date of despatch of the goods from Trojan's premises, or if at the date of carrying out the work, in either case there has been any increase in all or any of such costs, the price payable for the goods or services may at the request of Trojan be increased accordingly.
- 5.3 The price for the goods or services shall, unless otherwise stated, be exclusive of value added tax and the cost of packaging and carriage which will be charged at Trojan's normal rates.
- 5.4 Where the price for the goods or services is varied in accordance with clause 5.2 the price as varied shall be binding on both parties and shall not give either party any option of cancellation.
- 5.5 Prices quoted are net and are in sterling unless otherwise agreed. All payments are to be made to Trojan's address as stated on the invoice unless agreed otherwise.
- 5.6 All payments shall be made without deduction or set-off.
- 5.7 Where any agreement to supply goods or services provides for goods or services to be delivered or performed by instalments which are to be separately paid for, such agreement shall not be severable and failure by the Customer to pay for or accept delivery or performance of any instalment by the due date shall entitle Trojan at its option to treat the whole agreement with the Customer as repudiated.
- 5.8 Unless otherwise expressly agreed, payment shall be made in accordance with clause 5.5 upon receipt of invoice which shall be sent by post or by electronic means to the customer upon despatch of the goods or performance of the services. If the Customer does not take delivery when requested, payment shall be made 7 days after Trojan has requested the Customer to take delivery. Where the customer fails to take delivery of the goods, Trojan may arrange storage of the goods at the Customer's risk and the customer shall be liable to Trojan for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any other right which Trojan may have in respect of the Customer's failure to take delivery of the goods or pay for them or the services in accordance with the contract.

6. Warranty and Liability of Trojan.

- 6.1 Trojan warrants that it will (where the goods are the subject of a guarantee from the manufacturer which is in force at the time of the notification referred to below) at its option credit the account of the customer (if any) or remedy free of charge by repair or replacement any goods which are accepted by Trojan as being defective or not in accordance with the Contract or any express description or representation given or made by or on behalf of Trojan in respect of the goods, (save that this Warranty shall not apply where the defect or fault is attributable to misuse of the goods by the Customer or defective materials supplied by third parties where the Customer's only remedy will be against that third party), provided that the Customer notifies Trojan promptly of such a defect and where the Customer arranges for the prompt return to Trojan of the defective goods at the Customer's risk and expense.
- 6.2 The Customer's remedies in respect of any claim under the foregoing express Warranties or any condition or warranty implied by law or any other claim in respect of the goods or services or any workmanship in relation to them (whether or not involving negligence on the part of Trojan) shall in all cases be limited to repair, replacement or refund of the purchase price as aforesaid and any condition or warranty implied by law shall cease to apply after the expiry of the relevant warranty period.
- 6.3 Trojan shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities, whether direct, indirect or consequential (including but not limited to economic loss or loss of profits) and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law. A claim in respect of any defect or failure to comply with the specification or in respect of any delivery or instalment of any Order or any part of them shall not entitle the Customer to cancel or refuse delivery or performance or any payment for any other order, delivery or instalment or any part of the same order, delivery or instalment.
- 6.4 Any claim against Trojan whether in contract or tort shall be limited to an amount by way of liquidated damages equal to the invoice value of the goods in respect of which the claim is made.

EUROPEAN WEEE Compliance

- 7.1 Trojan will be responsible for the disposal and treatment of all products sold by Trojan between 1st March 2007 and 10th Dec 2007 in Compliance with the European WEEE Directive as a Business to Business supplier.
- 7.2 All Trojan products sold after the 10th Dec 2007 will be the responsibility of the customer with regards to the disposal and treatment of the goods at the end of their life.

8. Termination

- 8.1 If any payment due to Trojan is overdue by 60 days from the date of invoice or if the customer enters into a deed or arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the Court shall make an order that the Customer shall be wound up (otherwise than for the purposes of amalgamation or reconstruction) or if a receiver (including an administrative receiver) shall be appointed of any of the assets or undertaking of

the Customer or if the Customer suffers the appointment of an administrator or if circumstances shall arise which entitle the court or a creditor to appoint a receiver (including an administrative receiver) or a manager or which entitle the court to make a winding-up order or if the Customer takes or suffers any similar action in consequence of debt or if the financial responsibility of the Customer shall, in the opinion of Trojan become impaired or if the Customer shall commit any breach of any part of the contract Trojan may without prejudice to its rights and remedies under these conditions stop all goods in transit and suspend further deliveries or performance of the services and by notice to the Customer may terminate the contract immediately.

9. Force Majeure

- 9.1 Trojan shall not be liable to the Customer for any delay in delivery or performance or failure to deliver or perform its obligations if the duration of the delay is not substantial, or if the delay or failure is due to an Act of God, fire, inclement or exceptional weather conditions, industrial action (whether at Trojan's premises or elsewhere), hostilities, shortage of labour, materials, power or other supplies, late delivery or performance or non-delivery or non-performance by suppliers or subcontractors, governmental order or intervention (whether or not having the force of law) or any other clause whatever beyond Trojan's control or of an unexpected or exceptional nature, and in such event Trojan may elect by written notice to cancel any agreement with the Customer or elect that the time for performance shall be extended until such time as Trojan can reasonably effect performance.
- 9.2 No delay shall entitle the Customer to reject any delivery or performance or any further instalment or part of the order or any other order from the customer or to repudiate the Contract or the Order.

10. Waiver

If the Customer shall be in breach of any of these conditions then the failure by Trojan to require the Customer to rectify the same shall not create any assumption that such a breach has been waived by Trojan.

11. Patents

The Customer shall indemnify Trojan against all actions, costs (including the cost of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement or alleged infringement of any patent, registered design, unregistered design, design right, copyright, trademark or other industrial or intellectual property rights resulting from compliance by Trojan with the Customer's instructions, whether express or implied.

12. Indemnity

The Customer agrees upon demand to indemnify Trojan against all losses, damages, injury, costs and expenses of whatever nature suffered by Trojan to the extent that the same are caused by or related to:

- 12.1 Designs, drawings or specifications given to Trojan by the Customer in respect of the goods;
- 12.2 Defective materials or products supplied by the Customer to Trojan and incorporated by Trojan in the goods; or
- 12.3 The improper incorporation, assembly, use, processing, storage or handling of goods by the Customer.

13. Assignment and Subcontracting

- 13.1 None of the rights or obligations of the Customer under the contract may be assigned or transferred in whole or in part without the prior written consent of Trojan.
- 13.2 Trojan shall be entitled to subcontract any work relating to the contract without obtaining the consent of, or giving notice to, the Customer.

14. Health and Safety

The Customer agrees to pay due regard to any information or any revised information whenever supplied by Trojan (and is deemed to have been given adequate information and to have read and understood it) relating to the use for which the goods are designed or have been tested or concerning conditions necessary to ensure that they will be safe and without risk to health at all times when they are being set, used, cleaned or maintained by any person at work or when they are being dismantled or disposed of, and the Customer undertakes to take such steps as may be specified by the above information to ensure that as far as reasonably practicable the goods will be safe and without risk to health at all times as mentioned above. For these purposes the Customer is deemed to have been given a reasonable opportunity to test and examine the goods before delivery.

15. Notices

All demands notices and other communications shall be in writing and addressed to Trojan at its address shown on invoices delivered by it and to the Customer at the address given by it for delivery of invoices (or as subsequently notified by on to the other in writing) and shall be deemed served if delivered, at the time of delivery; if posted, 48 hours after being posted by first class post and if sent by facsimile or electronic transmission, at the time of transaction.

16. Invalidity

The invalidity, illegality or unenforceability of any provision of these conditions should not affect the other conditions.

17. Law and Jurisdiction

The Conditions shall be governed by and construed in accordance with English law and the parties hereby submit to the non exclusive jurisdiction of the English Courts. No clause within these terms affect your statutory rights.