

## STANDARD CONDITIONS OF CONTRACT

With effect from 10th March 2003, all supplies by or any associated company will be in accordance with our current standard conditions of Contract

### 1. PRELIMINARY

1.1 In these Conditions:

"the Company" means Working Telecoms Ltd or any Associated Company

"the Contract" means the Contract between the Company and the Customer for the sale or supply of equipment "the Customer" means the person, firm or company with whom the Contract is made by the Company

"the Equipment" means any equipment, machinery, parts, spares, software and any other goods sold or supplied by the Company

"the Warranty Period" means

(i) in the case of hardware a period of twelve months from the date of delivery or the balance of any warranty period provided to the Company by the manufacturer if greater or

(ii) in any other case a period of ninety days from the date of delivery

1.2 These Conditions apply to all Contracts of the Company to sell or supply equipment and shall prevail over any terms put forward by the Customer unless the Company expressly agrees to them in writing. No conduct by the Company shall be deemed to constitute acceptance of any terms put forward by the Customer and no concession made or latitude

allowed by the Company to the Customer shall effect the strict rights of the Company under the Contract.

1.3 These Conditions may only be varied with the express written agreement of the Company.

### 2. PRICES

2.1 Unless otherwise specified prices payable for the Equipment are exclusive of carriage and are subject to the Company's right to require payment of delivery charges, insurance costs, customs duties, special handling charges and/or packaging charges as appropriate.

2.2 The Company shall have the right at any time to revise prices to take into account increases in costs including (without limitation) costs of agreed changes in any taxes, duties, levies or exchange rates or costs arising as a result of site conditions, delays, interruptions, lack of information and any other factor beyond the Company's control.

### 3. ORDERS AND DELIVERY

3.1 No order shall be accepted by the Company unless first confirmed by the Customer in writing or by facsimile with an order number.

3.2 The Customer shall state on placing an order if he requires the Company to arrange carriage and if so the delivery address. If the Customer so requests the Company shall be entitled to make any contract of carriage and/or insurance on behalf of the Customer as the Company considers necessary and will be under no obligation to notify the Customer thereof. The Customer will be responsible for complying with all conditions and requirements of the carriers. Unless otherwise agreed by the Company delivery of the Equipment will be ex-works.

3.3 All times or dates given for delivery of the Equipment are only estimates given in good faith and are not conditions, warranties or innominate terms (or terms otherwise howsoever), of this or any other (whether collateral or otherwise) contract.

3.4 The Company shall give the Customer notice when the Equipment is ready for delivery. If the Customer refuses or fails to arrange collection or take delivery (as the case may be) of Equipment ordered within seven days of service of that notice then (a) the Customer will bear the risk of any loss or damage to the Equipment after expiry of that time (b) the Company shall be entitled to immediate payment in full for the Equipment which is the subject of the order and (c) the Customer shall in addition to the invoice price pay all costs of storage and any additional costs incurred as a result of such refusal or failure. The Company shall not be liable to the Customer for any loss or damage to the Equipment caused by their storage.

3.5 The Company may make and the Customer shall accept partial deliveries of Equipment ordered. Each delivery shall be considered to be the subject of a separate Contract and failure by the Company to make any one or more deliveries in accordance with the Contract or any claim by the Customer in respect of any one or more deliveries shall not entitle the Customer to treat the Contract as a whole repudiated.

### 4. ACCEPTANCE

4.1 The Customer will accept the Equipment even if it is delivered late and late delivery will not entitle the Customer to terminate the Contract.

4.2 The Customer shall inspect the Equipment as soon after delivery as is reasonably practicable and in any event within 2 working days after delivery, which period the customer agrees is a reasonable period given the nature of the Equipment supplied by the Company.

4.3 The Customer will notify the Company in writing of any shortage of supply, deficiency, or damage to or fault with the Equipment within 2 working days of delivery. If the Customer fails to comply with this clause the Company shall not be liable to the customer in respect of any shortage discrepancy, damage or fault, or in respect of any consequential losses or expenses arising there from.

4.4 The Customer hereby agrees that the retention of the Equipment without written complaint to the Company within 2 working days of delivery constitutes for all purposes an intimation by the Customer that the Equipment has been unconditionally accepted and that given the nature of the Equipment supplied by the Company, 3 working days constitutes a reasonable period within which the Equipment should be rejected.

4.5 Each of the preceding sub-clauses of this clause is entirely without prejudice to the provisions of clause 9 hereof.

### 5. RISK

5.1 From the time the Equipment leaves the Companies premises whether this be by way of collection by the Customer or receipt by carriers (as the case may be) the risk in the Equipment shall pass to the Customer who shall be solely responsible for the custody and maintenance thereof.

### 6. PAYMENT

6.1 If credit terms have been agreed in writing by the Company payment shall be made in full without any deduction or set-off within 30 days of the date of the invoice unless otherwise agreed in writing by the Company. In any event, the Company reserves the right to withdraw credit facilities at any time. If the trading relationship between the Customer and the Company is terminated for whatever reason then all sums due by the Customer become payable immediately.

6.2 If credit terms have not been agreed by the Company then payment shall be made in full without any deduction or set-off at the time of placing the order for the Equipment.

6.3 If:

(1) The Customer is unable to pay its debts as they fall due or is otherwise insolvent;

(2) A receiver or an administrative receiver is appointed over any part of the Customers business or assets.

(3) The Customer (if it is an individual) makes or offers to make any arrangement or composition with its creditors or commits any act of bankruptcy or a bankruptcy petition is presented against it; or (if the Customer is a limited Company) any resolution or petition to wind it up is passed or presented, or any steps are taken to appoint an administrator, or an administrator is appointed over it. Then all invoices for Equipment which has been delivered to the Customer (or to its order) shall become due and payable forthwith and such credit

arrangements as may have been made for the same shall automatically come to an end. In the event that delivery has yet to be made, then, in addition to and without prejudice to the Companies rights at common law, equity and statute, it shall be entitled at its option to cancel the contract or to cancel or suspend delivery.

6.4 Notwithstanding any of the terms and conditions hereof the time of payment shall be of the essence of the Contract.

6.5 Interest shall be payable on overdue accounts at the rate of 8 percent per month above the Bank of England base rate or part thereof on the amount for the time being outstanding from the due date of payment thereof until receipt by the Company whether before or after judgment.

6.6 If any cheque presented in payment of an invoice by the Customer shall be returned unpaid by the Customers bank or if any agreed standing order or direct debit arrangement shall fail to operate then the Customer shall in addition to all other sums payable under the Contract pay to the Company the sum of £45 for each such event or such greater sum as shall represent the cost incurred by the Company by reason of such dishonor or failure as aforesaid.

6.7 If at any time whatsoever it is the Customers intention to assign its debts to an associated Company of the Customer or to a Third Party, the Customer shall notify the Company without delay.

6.8 If credit terms have been agreed by the Company, the Customer and its directors undertake to notify the Company, as soon as practicable after such agreement, of the existence and identity of any associated companies under common ownership with the Customer. This obligation is a continuing obligation such that, if at any time after credit has been granted, any other Company comes into common ownership with the Customer, the same must be notified, as soon as practicable to the Company. It is agreed that the requirements under this sub-clause are of the essence of the agreement to provide credit and of any other contract made under or pursuant to that agreement between the Company and the Customer.

6.9 Any costs and/or expenses incurred by the Company in recovering funds from, or otherwise enforcing any of its rights against, the Customer, whether within or outside the United Kingdom, shall be fully reimbursed to the Company by the Customer, and the Customer agrees fully to indemnify the Company in respect of any such costs or expenses.

6.10 If credit terms have been agreed by the Company, the Customer undertakes to notify the Company of any material or potentially material change in its finances and/or structure and/or position generally. Such notifiable events include, but are not limited to:

(1) any change in the information supplied by the Customer to the Company for the purposes of and/or in relation to obtaining credit; and

(2) any change in the ownership of the shares in the Customer and any change in the number of such shares;

(3) any change in the ownership of the shares in any Company which has been, at any time after the granting of credit, under common ownership with the Customer;

(4) any material change in the nature and/or value of the Customers assets, whether as a result of disposal, acquisition, the grant or crystallisation of any security, or otherwise howsoever. It is agreed that the requirements under this sub-clause are of the essence of the agreement to provide credit and of any other contract made under or pursuant to that agreement between the Company and the Customer.

6.11 For the avoidance of doubt, the Company may maintain an action for the price once the due date for payment has arisen, notwithstanding the fact that title has yet to pass to the Customer.

### 7. RETENTION OF TITLE

7.1 The Equipment shall remain the property of the Company until payment in full has been made for all sums payable to the Company (including those sums which have not yet fallen due for payment) under all Contracts between the Company and the Customer.

7.2 The Customer shall hold all Equipment property in which remains in the Company as bailee for the Company. Further, it shall mark it, and store it, in such a way that it can be identified as the Companies property and shall keep it separate from the Customers own property and the property of any other person.

7.3 If, notwithstanding 7.2, the Equipment property in which remains in the Company is incorporated into or affixed to products belonging to the Customer or anyone else, property in that Equipment shall remain in the Company until full payment is made in accordance with 7.1 above.

7.4 At any time the Company shall be entitled to recover the Equipment property in which remains in the Company and for that purpose the Customer hereby grants to the Company, its agents and employees an irrevocable license to enter any premises where such Equipment is stored in order to reposes the same, and (in the event that it has been incorporated or affixed to other products) to dismantle it or detach it from those products and repossess it. Further:

(1) The Customer will give the Companies representatives all reasonable assistance to enable it to identify (and dismantle) such Equipment when they attend such premises, and

(2) In the event that such Equipment is no longer at the Customers premises (either because it has been delivered to a third party under an agreement for sale or otherwise) the Customer will inform the Company where it is and provide the Company with all reasonable assistance to enable it to find and repossess the same.

7.5 The Customer may sell on Equipment property in which remains in the Company, and may appropriate it to a contract for sale and deliver it to a third party, but only when each of the following circumstances is satisfied.

(1) The agreement for sale, and the appropriation of the Equipment to the agreement for sale and the delivery to the third party, are made and effected bona fide and in the ordinary course of business;

(2) The Customer, under the agreement for sale, retains title in the Equipment until it (the Customer) has been paid in full by the third party to whom it is agreeing to sell on the same;

(3) The Customer has complied with all its obligations (including its payment obligations) under all its contracts with the Company.

If at the time of the agreement for sale, or appropriation, or delivery, one or more of such circumstances are not satisfied, then the Customer has no right to sell such Equipment, or to appropriate it to a contract for sale, or (if it has been appropriated) to deliver it to the third party.

7.6 The Customers license in 7.5 to sell on Equipment property in which remains in the Company, to appropriate the same to a contract for sale, or to deliver the same to a third party, is automatically revoked and comes to an end in any of the following events:

(1) It is unable to pay its debts as they fall due or is otherwise insolvent;

(2) A receiver or a administrative receiver is appointed over any part of the Customers business or assets.

(3) The Customer (if it is an individual) makes or offers to make any arrangement or composition with its creditors or commits any act of bankruptcy or a bankruptcy petition is presented against it; or (if the Customer is a limited Company) any resolution or petition to wind it up is passed or presented, or any steps are taken to appoint an administrator, or an administrator is appointed over it.

7.7 For the avoidance of doubt, the Company expressly reserves all its rights at common law and in equity in the event that the Customer makes an unauthorised sale, appropriation or delivery of Equipment property in which remains in the Company. In particular, the Customer expressly acknowledges that the proceeds of any such unauthorised sale appropriation or delivery belong to and are payable only to the Company, who will not be obliged to refund any part thereof to the Customer.

**8. SPECIFICATION AND PERFORMANCE**

**8.1** All drawings specification and technical documents issued by the Company at any time in relation to 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 Companies express written agreement.

**8.2** The Company reserves the right to alter or depart from any specification or design of any Equipment sold provided that such alteration or departure shall not to a material extent adversely affect the performance of the Equipment or the quality of the workmanship or the materials used.

**8.3** Unless otherwise expressly agreed in writing any performance figures, quoted or referred to in any specification or other document are estimates only based on assumed conditions in a well managed office with experienced adequate and efficient operatives and appropriate services and proper use of satisfactory material.

**9. WARRANTY**

**9.1** The Company will make good by repair or exchange (at its option) such of the Equipment or part thereof which is shown to its reasonable satisfaction to have proved defective in materials or workmanship during the Warranty Period on the following terms:

**9.1.1** any defect in or failure of the Equipment must be notified to the Company in writing as soon as practicable and in any event no later than two working days after discovery.

**9.1.2** the Equipment must be unmodified, have been properly used under normal working conditions and have been properly stored, installed and maintained.

**9.1.3** before returning the Equipment or any part thereof the Customer must obtain a return authorisation number from the Company and details of the Companies returns procedure, which must be fully complied with.

**9.1.4** the Equipment or part to be returned must be delivered to the Companies premises in its original packaging together with supporting documentation showing full description of the alleged fault and quoting the relevant returns number. In the event that the Customer fails to comply with this requirement then the Company will be entitled to charge a 15% minimum handling fee upon authorised return of the Equipment.

**9.1.5** all delivery charges for carriage to and from the Companies premises must be paid by the Customer.

**9.1.6** where parts only are returned the Company shall not be responsible for installing any such part after repair or exchange.

**9.1.7** the Company may elect to carry out any repairs at the premises of the Customer and if so electing then the Customer shall provide the Company's employees or agents with free access to the place of installation and free access to any service or facilities that may berequired to repair the Equipment.

**9.1.8** if it so elects the Company may require the Customer to return the Equipment or part direct to the manufacturer for repair or exchange in which case such repair or exchange on the part of the manufacturer shall satisfy the Company's obligations under this clause 9.

**9.1.9** the foregoing warranty shall only apply to any replacement Equipment or parts thereof supplied by the Company under this warranty for the balance of the warranty period applicable to the Equipment sold.

**9.1.10** the benefit of this warranty cannot be assigned on by the Customer to a third party until the Equipment to which it relates has been paid for by the Customer. Nor can the benefit of this warranty be assigned by the Customer to a third party in relation to Equipment that is sold on under a sale, appropriation or delivery effected in breach of the license provided for by clauses 7.5 and 7.6 above.

**9.2** The Company gives no undertaking that the Equipment is fit for any particular purpose (including any purpose for which such Equipment is commonly supplied) or is of any particular quality in respect of its appearance, finish, safety, durability or freedom from defects or otherwise. The Customer, having greater knowledge of his own requirements, relies entirely on his own skill and judgement in evaluating whether the Equipment is in every respect of satisfactory quality.

**9.3** Subject to the foregoing all conditions, terms and representations, express or implied by statute, common law, custom or usage in relation to the Equipment are hereby excluded and the Company shall be under no liability to the Customer for any loss, damage or injury, direct or indirect, resulting from defective material, faulty workmanship or otherwise howsoever arising and whether or not caused by the negligence of the Company, its employees or agents.

**9.4** In no event shall the Company be under any liability whatsoever and howsoever arising for any loss of use or loss of profits, interruption of business or any other indirect special or consequential loss of any type arising or alleged to have arisen out of any act or default, whether negligent or otherwise, of the Company in respect of the Company's obligations under the contract

**9.5** If the Customer deals as a consumer as defined in S.12 of the Unfair Contracts Terms Act 1977 the above provisions shall not apply and the Customers statutory rights under the Sale of Goods Act will be unaffected.

**9.6** The Company does not exclude liability for death or personal injury to the extent that it is caused by the negligence of the Company, its employees or agents nor for breach of any of the undertakings as to title implied into the Contract by S.12 of the Sale of Goods Act 1979.

**10 PROGRAM LICENSES**

**10.1** The Customer acknowledges that all copyright and other rights in any program sold by the Company remain the property of the Licensors or Suppliers of the program and that neither the Customer nor any Third Party to whom the Customer supplies or transfers the program has any rights therein except as expressly licensed by the Licensor or supplier of the program.

**10.2** The Customer may not except as expressly licensed by the Licensor or Supplier of the program:-

- i. reproduce or translate any program or part of a program
- ii. sell, rent, lease or otherwise part with possession or control of a program to another party.

**10.3** The Customer agrees to ensure that all programs supplied by the Company are used by any Third Party to whom the Customer transfers the program only as expressly licensed by the Licensor or Supplier of the program.

**10.4** Upon any supply or transfer of the program by the Customer to any Third Party the Customer agrees to transfer to the Third Party clauses 10.1-10.3 of these conditions and thereby bind the Third Party to the same.

**11. REPRESENTATIONS**

**11.1** The Company shall incur no liability to the Customer for misrepresentation by virtue of any statement made by or on behalf of the Company prior to the Contract whether orally or in any letter document or sales literature and the Customer shall not be entitled to rescind the Contract on the grounds of any such misrepresentation.

**12. RETURNS**

**12.1** The Company shall be under no obligation to accept return of any Equipment other than as provided in clause 9. If notwithstanding the Company shall in any particular case agree to accept return of Equipment which is not defective then it shall only do so on terms that

(a) the Customer shall pay a sum in respect of the costs so incurred by the Company equal to twenty-five per cent of the full invoice price subject to a minimum charge of £55

(b) the Customer shall obtain a returns authorisation number from the Company and comply with the Company's returns procedure and (c) the Equipment must be delivered to the Company's premises in its original packaging.

**13. TELECOMMUNICATIONS EQUIPMENT**

**13.1** 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:

**13.1.1** British Telecom shall have the right to require modifications to be carried out to Equipment which is already installed and in use. Any modifications required will be carried out at the Customers expense.

**13.1.2** in no event shall the Company be liable for damages, loss or injury to British Telecom equipment or personnel in connection with or arising out of the Customers act or neglect.

**14. FORCE MAJURE**

**14.1** The Company shall not be liable for any delay or failure in performance of its obligations under the Contract which is due to or results from any circumstances beyond its reasonable control including but not limited to delays or defaults of suppliers, or the defaults of any sub-contractor, war, strike, lock-out, trade dispute, flood, accident to plant or machinery, shortage of materials or labour. In any such event the Company shall be entitled to delay or cancel delivery of the Equipment. If due to any such event the Company has insufficient stocks to meet all its commitments the Company may apportion available stocks between its customers at its sole discretion.

**15. CANCELLATION**

**15.1** No Contract or order may be cancelled without the Company's written consent. In the event that cancellation is agreed for whatever reason the Customer shall indemnify the Company against all costs, claims, loss and expense occasioned thereby including any consequential loss and loss of profits.

**16. EXPORT**

**16.1** If under this Contract the Goods are to be exported out of England and/or Wales by the Company to the Customer or its order, the following shall apply:

**16.1.1** Clause 9.1 (and all sub-clauses of clause 9.1) hereof shall not apply. The Goods are sold with the manufacturer's warranty (if any is provided) only. Subject to its absolute discretion as to how to do so the Company will use its best endeavours, if requested to do so by the Customer, to ensure that the Customers rights against the manufacturer under any such warranty are satisfied.

**16.2** It is a condition of this Contract that the Customer enters this Contract as principal and not as agent for any other person or party. The Customer by entering this Contract agrees and represents that it does so as principal and not as an agent.

**16.3** If as a result of any non-payment or any other breach of this Contract by the Customer the Company takes any steps, action or proceedings howsoever to obtain payment or to enforce its rights hereunder, the Customer shall be obliged fully to indemnify the Company in respect of any costs (which, if proceedings are issued, shall be paid by the Customer on the indemnity basis) or expenses or liabilities thereby suffered or incurred by the Company.

**17. GENERAL**

**17.1** If at any time one or more of the above Conditions becomes in whole or in part void, invalid or unenforceable then the remainder of these Conditions shall nevertheless remain valid and enforceable.

**17.2** ALL notices hereunder shall be in writing and shall be given by hand or sent by prepaid first class post facsimile or telex to the party concerned at its last known address. Notices sent by first class post shall be deemed (in the absence of earlier receipt) to have been delivered forty-eight hours after despatch and notices sent by facsimile or telex shall be deemed to have been delivered on the first working day following the date of their despatch.

**17.3** The construction, performance and validity of the Contract and of these Conditions shall in all respects be governed by the laws of England and the parties to this Contract hereby submit to the exclusive jurisdiction of the Courts of England and Wales.

**17.4** Associated Company shall mean Working Telecoms Ltd or any subsidiary thereof (unless otherwise expressly defined) and 'subsidiary' having the meaning as defined by section 736 of the Companies Act 1985.

**17.5** These terms may not be varied unless such variation shall have been expressly agreed in writing by a duly authorised representative of the Company.

**17.6** No delay or omission on the part of the Company in exercising any right, power or remedy provided by law or under this agreement shall:

- (1) Impair such right, power or remedy; or
- (2) Operate as a waiver thereof.

**17.7** The single or partial exercise of any right, power or remedy provided by law or under these terms shall not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

**17.8** The rights, powers and remedies provided in this agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

**17.9** Waiver by the Company of the performance of an obligation on one or more occasions will not amount to waiver of that obligation on any other occasion.

I accept that these Standard Conditions shall remain in force until such time as they are reviewed and any changes advised by the company.

Signed .....

Position .....

Date .....

Company .....