

HBT Conditions of Sale Terms and Conditions

This Conditions of Sale Terms and Conditions ("**Agreement**") is hereby entered into and agreed upon by you, either an individual or an entity ("**You**" or "**Buyer**") and H.B. Telecom (UK) Limited ("**HBT**") for the Goods (as Defined below). This Agreement is made and entered into as of the date that You accept it as Defined below (the "**Commencement Date**").

BY ACCEPTING THIS AGREEMENT, EITHER BY INDICATING YOUR ACCEPTANCE, BY EXECUTING THIS AGREEMENT OR AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THIS AGREEMENT. THIS AGREEMENT IS A LEGALLY BINDING CONTRACT BETWEEN YOU AND HBT AND SETS FORTH THE TERMS THAT GOVERN THE GOODS PROVIDED TO YOU HEREUNDER. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT. ANY CHANGES, ADDITIONS OR DELETIONS BY YOU TO THIS AGREEMENT WILL NOT BE ACCEPTED AND WILL NOT BE A PART OF THIS AGREEMENT.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Interpretation

1.1. Definitions

In this Agreement, unless the context otherwise requires, the expressions and terms listed in Schedule 1 (**Definitions**) shall have the meaning stated in that Schedule.

1.2. Construction of certain references

1.2.1 In this Agreement where the context admits:

1.2.1.1 references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions of which they are re-enactments (whether with or without modification);

1.2.1.2 the Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to Agreement includes the Schedules.

1.2.1.3 this Agreement shall be binding on, and inure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's successors and permitted assigns.

1.3. Precedence

Save for where the Order Form states otherwise, if there is an inconsistency between the Agreement, the Schedules or an Order Form, the following order of precedence shall apply to this Agreement and the documents referred to in it:

1.3.1 the Clauses in the main body of the Agreement;

1.3.2 the Schedules; and

1.3.3 the relevant Order Form.

Save where Clauses in the Agreement and its Schedules are specifically dis-applied or varied in any special conditions for a particular Order Form, in such a case, the special conditions in the relevant Order Form shall take precedence over the Clauses in the Agreement and the Schedules, if there is an inconsistency between the special conditions and the Clauses in the Agreement and the Schedules, solely in respect of the relevant Order Form.

2. Sale and Purchase

- 2.1 HBT sells and the Buyer purchases the Goods.
- 2.2 The Goods are sold "as seen". HBT makes no representations and gives no warranties as to the quality, condition, state or description of the Goods, or their fitness or suitability for any purpose. All implied statutory or common law terms, conditions and warranties as to the Goods are excluded to the fullest extent permitted by law.

3. Price and Payment

- 3.1 Subject to any special terms agreed in writing between the Buyer and HBT, HBT shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods unless the Goods are to be collected by the Buyer, or the Buyer fails to take delivery of the Goods, in which event HBT shall be entitled to invoice the Buyer for the price at any time after HBT has notified the Buyer that the Goods are ready for collection or (as the case may be) HBT has tendered delivery of the Goods.
- 3.2 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled but without any other deduction) within thirty (30) days of the date of HBT's invoice, notwithstanding that delivery may not have taken place and that title in the Goods has not passed to the Buyer.
- 3.3 Time shall be of the essence for any such payment. Receipts for payment will be issued only upon request.
- 3.4 Except as otherwise stated under the terms of any quotation or in any price list of HBT, and unless otherwise agreed in writing between the Parties, all prices are given by HBT on an ex-works basis, and where HBT agrees to deliver the Goods otherwise than at HBT's premises, the Buyer shall be liable to pay HBT's charges for transport, packing and insurance.
- 3.5 HBT reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to HBT which is due to any factor beyond the control of HBT (such as, without limitation, any foreign exchange, fluctuation, currency regulation, alteration of duties, significant increases in the cost of labour, materials or other costs of manufacture).
- 3.6 If the Buyer fails to make any payment on the due date then HBT may require the Buyer to pay all sums due under this Contract on demand, and reserve the right to charge Interest on all amounts overdue from the Buyer on a daily basis (before as well as after any judgement) until the date of payment, at NatWest Bank base rate plus four percent (4%).

4. Delivery

- 4.1 HBT shall deliver the Goods to the Buyer at the delivery location as set out in the Order Form.
- 4.2 If the Buyer fails to take delivery of the Goods when due, HBT may charge reasonable costs of storage from the delivery date until delivery is completed.
- 4.3 The delivery date is approximate only, and the time of delivery is not of the essence. HBT shall not be liable for any delay in delivery of the Goods that is caused by:
 - 4.3.1 events, circumstances or causes beyond its reasonable control; or
 - 4.3.2 the Buyer's failure to provide HBT with adequate delivery instructions or any other instructions that are relevant to the sale of the Goods.
- 4.4 The Goods may be delivered by HBT in advance of the quoted delivery date upon giving

reasonable notice to the Buyer.

5. Title and Risk

- 5.1 The risk of damage to or loss of the Goods shall pass to the Buyer on completion of delivery.
- 5.2 The title to the Goods shall pass to the Buyer only on payment in full (in cash or cleared funds) of the Price.
- 5.3 Until title to the Goods has passed to the Buyer, the Buyer shall:
 - 5.3.1 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as HBT's property;
 - 5.3.2 not remove, deface or obscure any identifying mark on or relating to the Goods;
 - 5.3.3 maintain the Goods in satisfactory condition and keep it insured against all risks for its full price from the date of delivery; and
 - 5.3.4 provide HBT promptly with such information and records as HBT may reasonably request concerning the Buyer's ongoing financial position.
- 5.4 HBT may recover Goods in which title has not passed to the Buyer. The Buyer irrevocably licenses HBT, its officers, employees and agents, to enter any premises of the Buyer (including with vehicles), in order to satisfy itself that the Buyer is complying with the obligations in clause 5.3 and to recover any Goods in which property has not passed to the Buyer.

6. Warranties

- 6.1 Subject as expressly provided in this Agreement, and unless where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 6.2 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods, or their failure to correspond with specifications shall (whether or not delivery is refused by the Buyer) be notified to HBT within seven (7) days of the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify HBT accordingly, the Buyer shall not be entitled to reject the Goods and HBT shall have no liability for such defect or failure and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 6.3 Where any valid claim in respect of any of the Goods, which is based on any defect in the quality or condition of the Goods, or their failure to meet specifications is notified to HBT in accordance with this Agreement, HBT shall be entitled to replace the Goods (or the part in question) free of charge or, at HBT's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price and HBT shall have no further liability to the Buyer.
- 6.4 The express terms of this Contract are in lieu of all warranties, conditions, terms, undertakings and obligations whether oral or in writing and whether express or implied by statute, common law, custom, trade usage, course of dealings or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

7. Limitation of Liability

- 7.1 HBT shall not be liable whether in contract, tort (including negligence), breach of statutory duty

or otherwise for loss of profits, anticipated profits, production, business, business opportunity, goodwill, revenue, or anticipated savings (whether direct or indirect), loss of, corruption of, or damage to data or software (whether direct or indirect), any special indirect or consequential loss or damage or any loss suffered by any third party or any liability to any third party.

- 7.2 The total liability of HBT (other than liability governed by clause 7.3) arising out of or in connection with this Contract (whether arising in contract, in tort, including negligence, as a result of breach of statutory duty or otherwise howsoever) is limited to a sum equivalent to the total Price of the Goods paid to HBT.
- 7.3 Nothing in this Contract shall exclude or restrict the liability of either party for death or personal injury arising as a result of its negligence, for its fraud; or for any other liability which cannot be excluded or limited by law.

8. Confidentiality.

8.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 8.2.2.

8.2 Each party may disclose the other party's confidential information:

8.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 8.2; and

8.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

9. Force Majeure

9.1 Neither party shall be obliged to carry out any obligation under this Contract (other than the Buyer's obligation to pay the Price) where performance of such obligation is prevented due to any cause beyond a party's reasonable control including but not limited to, any act of God, severe weather, failure or shortage of power supplies, flood, drought, lightning or fire, labour shortage or labour dispute, the act or omission from the Government, highways authorities, other telecommunications operators or administrations or other competent authority, the obstruction by a third party of line of sight between microwave installations, war, military operations, or riot, or difficulty, delay or failure in manufacture, production or supply by third parties of the Goods resulting from the same or a similar type of force majeure event and breakdown of any Goods.

9.2 A party relying on this clause 8 shall use reasonable endeavours to mitigate the effects of a force majeure event.

10. General

10.1 The Contract shall not create or constitute a partnership, joint venture or agency relationship between the Parties.

- 10.2 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 10.3 No failure to exercise, or delay in exercising a right, power or remedy provided by the Contract or by law shall constitute a waiver of that right, power or remedy, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.
- 10.4 This Contract does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 10.5 Buyer shall not assign, charge or otherwise deal with all or any of its rights and obligations in the Contract in whole or in part without the prior written consent of HBT.
- 10.6 All notices, requests and other communications called for by this Contract will be deemed to have been given immediately if made by electronic mail (confirmed by concurrent written notice sent first class post, postage prepaid) to the addresses set out herein.
- 10.7 The Agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales without regard to any conflict of law provisions, except that the United Nations Convention on the International Sale of Goods shall not apply and both Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.
- 10.8 Notwithstanding any other provision of this Contract, HBT may vary this Contract at any time by notice in writing to the Buyer.

SCHEDULE 1: Definitions

In these terms and conditions (unless the context otherwise requires):

Confidential Information means all information whether verbal, written, stored or otherwise obtained including, but not limited to, data, facts and statistics about the business affairs, products, product development, trade secrets, know-how, personnel, customers or suppliers of the disclosing party whether or not they are or were designated or marked as confidential together with all information derived by the receiving party from the foregoing which is by its nature confidential or proprietary;

Contract means the contract between HBT and the Buyer comprising these Terms and Conditions, together with the Order Form and/or any other documents specifically incorporated into such contract, and/or any Schedules hereto;

Goods means any hardware sold by HBT to the Buyer as more particularly set out in the Order Form; and

Order Form means the application form containing the details of an order for Goods placed by the Customer.