

CONDITIONS OF CONTRACT

1 Interpretation

1.1 In these Conditions:

"CUSTOMER" means the person who accepts CPD's Written quotation for the sale of the Goods or whose written order for the Goods and/or Services is accepted by CPD;

"GOODS" means the goods (including any instalment of the goods or any parts for them) which are sourced by CPD from third parties and are supplied in accordance with these Conditions;

"SERVICES" means services which CPD carries out for the Customer;

"CPD" means CPD Telecom and Electrical Services Limited (registered in England under number 5272381);

"CONTRACT" means the contract for the provision of services and/or sale of Goods;

"ORDER FORM" means the form set out on the reverse side of this form as signed for and on behalf of the Customer and CPD or such other form in writing so signed.

"CONDITIONS" means the conditions of sale set out in this document and (unless the context otherwise requires) includes any special conditions agreed in Writing between the Customer and CPD;

"WRITING", and any similar expression, includes facsimile transmission and comparable means of communication, but not electronic mail.

1.2 A reference in these Conditions to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 Basis of the sale

2.1 CPD shall sell and the Customer shall purchase the Services/Goods in accordance with CPD's Written quotation (if accepted by the Customer), or the Customer's written order (if accepted by CPD), subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Customer and CPD.

2.3 CPD's employees or agents are not authorised to make any representations concerning all Services and/or the Goods unless confirmed by CPD in Writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these Conditions affects the liability of either party for fraudulent misrepresentation.

2.4 Any advice or recommendation given by CPD or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by CPD is followed or acted upon entirely at the Customer's own risk, and accordingly CPD shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by CPD shall be subject to correction without any liability on the part of CPD.

3 Orders and specifications

3.1 No order submitted by the Customer shall be deemed to be accepted by CPD unless and until confirmed in Writing by CPD's authorised representative.

3.2 The Customer shall be responsible to CPD for ensuring the accuracy of any order (including any applicable specification) submitted by the Customer, and for giving CPD any necessary information relating to the Services and/or Goods within a sufficient time to enable CPD to perform the Contract in accordance with its conditions.

- 3.3 The quantity, quality and description of Services to be provided and/or the Goods and any specification for them shall be as set out in CPD's quotation (if accepted by the Customer) or the Customer's order (if accepted by CPD).
- 3.4 If work is carried out by CPD in accordance with a specification submitted by the Customer, the Customer shall indemnify CPD against all loss, damages, costs and expenses awarded against or incurred by CPD in connection with, or paid or agreed to be paid by CPD in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from CPD's use of the Customer's specification.
- 3.5 CPD reserves the right to make any changes in the specification of the Services and/or Goods which are required to conform with any applicable statutory or E.U. requirements or, where the Goods are to be supplied to CPD's specification, which do not materially affect their quality or performance.
- 3.6 No order which has been accepted by CPD may be cancelled by the Customer except with the agreement in Writing of CPD and on conditions that the Customer shall indemnify CPD in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by CPD as a result of cancellation.

4 Price of the goods

- 4.1 The price of the Services shall be CPD's quoted price or, for Goods supplied, the price valid at the date of supply. All prices quoted for Services are valid for 30 days only or until earlier acceptance by the Customer, after which time they may be altered by CPD without giving notice to the Customer.
- 4.2 CPD reserves the right, by giving Written notice to the Customer at any time before delivery, to increase the price of the Services and/or Goods to reflect any increase in the cost to CPD which is due to any factor beyond the control of CPD (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give CPD adequate information or instructions.
- 4.3 Except as otherwise stated in CPD's Written quotation or in any price list of CPD, and unless otherwise agreed in Writing between the Customer and CPD, all prices are given by CPD on an ex works basis, and where CPD agrees to deliver the Goods otherwise than at CPD's premises, the Customer shall be liable to pay CPD's charges for transport, packaging and insurance.
- 4.4 The price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to CPD.
- 4.5 The Customer acknowledges that from time to time Goods may be provided by CPD acting as an agent for third parties and in such circumstances it is such third party to whom the Customer may need to address its attentions. Where services require the engagement by CPD of subcontractors it may do this at any stage without reference to the Customer, but CPD shall at all times remain responsible for the work of such subcontractors were employees of CPD

5 Conditions of payment

- 5.1 Subject to any special conditions agreed in Writing between the Customer and CPD, CPD may invoice the Customer for the Services and/or the Goods on or at any time after completion of Services or delivery of the Goods, unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event CPD shall be entitled to invoice the Customer for the price at any time after CPD has notified the Customer that the Goods are ready for collection or (as the case may be) CPD has tendered delivery of the Goods.
- 5.2 The Customer shall pay the price of the Services and/or the Goods less any discount to which the Customer is entitled, but without any other deduction on the date set out in the Order Form. If no such date is so set out it shall be within 30 days of the date of CPD's invoice, and CPD shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to CPD, CPD may:

- 5.3.1 cancel the contract or suspend any further work or delivery of Goods to the Customer;
- 5.3.2 appropriate any payment made by the Customer for the Services and/or the Goods (or the goods supplied under any other contract between the Customer and CPD) as CPD may think fit (notwithstanding any purported appropriation by the Customer); and charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above base rate from time to time quoted by Barclays Bank plc, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6 Access and Delivery

- 6.1 The Customer shall arrange that access is granted to CPD, its agents and sub-contractors, at the relevant work location, to enable CPD, its agents and subcontractors to carry out the Services. The Customer shall also ensure that at all times the relevant premises comply with all health and safety legislation.
- 6.2 Any dates quoted for carrying out the Services and/or delivery of the Goods are approximate only and CPD shall not be liable for any delay carrying out the Services and/or for delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by CPD in Writing. Any Goods may be delivered by CPD in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 6.3 Where delivery of the Goods is to be made by CPD in bulk, CPD reserves the right to deliver up to **five** per cent more or **five** per cent less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.
- 6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by CPD to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 6.5 If CPD fails to deliver the Goods (or any instalment) for any reason other than any cause beyond CPD's reasonable control or the Customer's fault, and CPD is accordingly liable to the Customer, CPD's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.6 If the Customer or any third party fails to take delivery of the Goods or fails to give CPD adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of CPD's fault) then, without limiting any other right or remedy available to CPD, CPD may:
 - 6.6.1 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
 - 6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

7 Risk and property

- 7.1 Risk of damage to or loss of the Goods shall pass to the Customer:
 - 7.1.1 in the case of Goods to be delivered at CPD's premises, at the time when CPD notifies the Customer that the Goods are available for collection; or
 - 7.1.2 in the case of Goods to be delivered otherwise than at CPD's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when CPD has tendered delivery of the Goods.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until CPD has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by CPD to the Customer for which payment is then due.
- 7.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as CPD's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as CPD's property, but the Customer may resell or use the Goods in the ordinary course of its business.

7.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), CPD may at any time require the Customer to deliver up the Goods to CPD and, if the Customer fails to do so forthwith, enter on any premises of the Customer or any third party where the Goods are stored and repossess the Goods.

7.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of CPD, but if the Customer does so all moneys owing by the Customer to CPD shall (without limiting any other right or remedy of CPD) forthwith become due and payable.

8 Warranties and liability

8.1 Subject to the following provisions CPD warrants that the Services will correspond with the specification set out in the Quotation on the date such work is completed and will be free from defects in material and workmanship.

8.2 The above warranty is given by CPD subject to the following conditions:

8.2.1 CPD shall be under no liability in respect of any defect in the Services arising from any drawing, design or specification supplied by the Customer;

8.2.2 CPD shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow CPD's instructions (whether oral or in Writing), misuse or alteration or repair of the Goods without CPD's approval;

8.2.3 CPD shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Services and/or Goods has not been paid by the due date for payment;

8.2.4 the above warranty does not extend to parts, materials or equipment not manufactured by CPD, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to CPD.

8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Conditions Act 1977), all warranties, conditions or other conditions implied by statute or common law are excluded to the fullest extent permitted by law.

8.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Customer are not affected by these Conditions.

8.5 A claim by the Customer which is based on any defect in the quality or condition of the Services or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to CPD within **seven** days from the date of delivery. If delivery is not refused, and the Customer does not notify CPD accordingly, and CPD shall have no liability for such defect or failure, and the Customer shall be bound to pay for the Services in accordance with the Contract.

8.6 Where a valid claim in respect of any of the Services which is based on a defect in the quality or their failure to meet specification is notified to CPD in accordance with these Conditions, CPD may make good those Services (or the part in question) free of charge or, at CPD's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price), in which case CPD shall have no further liability to the Customer.

8.7 Except in respect of death or personal injury caused by CPD's negligence, or liability for defective products under the Consumer Protection Act 1987, CPD 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 conditions of the Contract, 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 CPD, its employees or agents or otherwise) which arise out of or in connection with the supply of Services or 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 CPD under or in connection with the Contract shall not exceed the price of those Services and/or the Goods (as the case maybe), except as expressly provided in these Conditions.

8.8 CPD shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of CPD's obligations in relation to the Services and/or Goods, if the delay or failure was due to any cause beyond CPD's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond CPD's reasonable control:

8.8.1 Act of God, explosion, flood, tempest, fire or accident;

8.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

- 8.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 8.8.4 import or export regulations or embargoes;
- 8.8.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of CPD or of a third party);
- 8.8.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 8.8.7 power failure or breakdown in machinery.

9. Insolvency of Customer

- 9.1 This clause 9 applies if:
 - 9.1.1 the Customer makes a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - 9.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
 - 9.2.3 the Customer ceases, or threatens to cease, to carry on business; or
 - 9.2.4 CPD reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 9.3 If this clause applies then, without limiting any other right or remedy available to CPD, CPD may cancel the Contract or suspend any further Services under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

10. General

- 10.1 A notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.2 No waiver by CPD of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.3 If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
- 10.4 The Contract shall be governed by the laws of England, and the Customer agrees to submit to the non-exclusive jurisdiction of the English courts.
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I understand the Terms & Conditions that are set out above

Signed:

Company:

Date: