

# Terms and Conditions

## 1. Definitions

- 1.1 ATL shall mean ATL Telecom Limited.
- 1.2 The Company shall mean ATL Telecom Limited.
- 1.3 The Customer shall mean the person, firm or company by whom the Product/Goods are purchased.
- 1.4 The Products or Goods shall mean the equipment, spare parts, services and other items forming the subject of the Contract to which these Conditions apply.
- 1.5 Order or Contract shall mean the Customers instructions to ATL to supply the Products.
- 1.6 Acceptance of Order shall mean the written acceptance by ATL of the Order.
- 1.7 Parties shall mean ATL and the Customer.

## 2. General

- 2.1 Quotations shall be open for the period stated therein, or where no period is stated then for a period of thirty days from date of issue.
- 2.2 Each order is subject to these Conditions of Sale which the Customer will be deemed to accept.
- 2.3 These Conditions may not be modified or varied unless the Company agrees thereto in writing and the Company shall not be deemed to accept such other Conditions nor waive any of these Conditions by failing to object to provisions contained in any purchase order or other communications from the Customer.
- 2.4 Orders placed with the Company shall not be binding on the Company or deemed accepted by it unless and until a written acceptance is issued to the Customer by the Company.
- 2.5 Non-delivery within 10 days of the date of despatch must be reported immediately in writing to the Company. Any damage or shortfall in delivery must be reported in writing to us within 3 working days of delivery, giving a statement of the alleged shortfall or damage. The Company shall not be liable for any claims in respect of the above unless they have been reported in accordance with this Clause.
- 2.6 Penalty clauses on Customer order or Contracts will not be accepted unless expressly entered into by the Company and undertaken in writing.

## 3. Delivery Risk and Title

- 3.1 The Company will arrange for carriage of the Product to the Customer's premises and delivery shall take place when the Product is off-loaded at the Customer's premises. (The Company may restrict or withhold despatch temporarily in the event of any breach of the Customer's obligations under the Contract).
- 3.2 Any dates, times or periods quoted by ATL for delivery of Goods are estimates only and although ATL will endeavour to meet such estimates ATL shall not be liable for failure to do so or for any costs, charges or expenses incurred as a consequence of such failure and accordingly the Customer shall not be entitled to refuse to accept goods merely because of such failure.
- 3.3 Notwithstanding delivery and the passing of risk, property in and title to the goods shall remain with ATL until ATL has received payment of the full price of (a) all Goods that are the subject of the contract/order and (b) all other Goods supplied by ATL to the Customer under any contract/order whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of all contracts/orders between ATL and the Customer.
- 3.4 The Customer shall be entitled to re-sell the Goods to a third party in the normal course of the Customer's business on condition that the Customer shall insofar as the purchase price of the Goods remains unpaid in whole or in part at the time of such processing and or re-sale:

- 3.4.1 Act and be deemed to act as ATL's Agent (but without imposing any liability on ATL to any third party); and
- 3.4.2 Maintain separate accounts in respect of the proceeds arising from such processing and or re-sale; and
- 3.4.3 Account to ATL for such proceeds; and
- 3.4.4 If requested by ATL, assign to ATL any right or claim of the Customer over any third party in respect of the Goods; and
- 3.4.5 Impose upon any third party the same restrictions as are imposed upon the Customer by this Clause 7.
- 3.5 The Customer agrees to store the Goods until they have been paid for or re-sold in the normal course of the Customer's business in such a way that they are readily identifiable as the property of ATL.
- 3.6 At any time until the Goods have been paid for and without prejudice to any other remedies, the Company or its agents shall be entitled immediately after given notice of its intention to do so to enter upon the premises of the Customer with such transport as may be necessary and re-possess any Goods to which it has title hereunder.
- 3.7 Nothing in this clause shall confer any right on the Customer to return Goods supplied hereunder or to refuse or delay payment thereof, unless otherwise agreed in writing.

#### 4. Price and Payments

- 4.1 Prices shall generally be in accordance with the Company's published Customer price list and may be amended from time-to-time subject to one months notice.
- 4.2 Prices are exclusive of Value Added Tax and/or similar purchase taxes.
- 4.3 Payment shall be deemed not to have been made until any and all cheques, drafts and bills by which payment is to be effected have been cleared or honoured (as the case may be).
- 4.4 Should the Customer fail to give ATL adequate delivery instructions then ATL shall be entitled (but not bound) to store the goods at the Customer's expense.
- 4.5 Unless otherwise agreed, payment of due sums shall be made to the Company within thirty (30) days from date of invoice. Payments shall not be withheld on account of any claim of the Customer not accepted by the company. Where payment is not received in accordance with this Clause, the Company reserves the right to (a) suspend deliveries; and/or (b) charge interest on any overdue sums on a daily basis until payment is received at the rate of two per cent (2%) per annum above Barclays Bank base rate.
- 4.6 The Company recommends minimum sales prices of re-sale of the Product by the Customer.

#### 5. Warranty

- 5.1 The Company warrants that the Product will be free from defects in materials and workmanship for the period specified in the user guide supplied with the product.
- 5.2 The Company will effect the repair (or at its sole option) the replacement or refund of any defective items during the period of warranty, provided that such defects can be shown to be due to defective materials or workmanship and the Product is returned carriage paid to the Company. Replaced or repaired items will be delivered to the Customers premises at the Company's expense.
- 5.3 This warranty shall not apply to any defects in the Product arising from:
  - (a) Misuse.
  - (b) The use of environmental conditions or storage other than those recommended by the Company.
  - (c) Modifications made to the Product without the Company's prior written consent.
  - (d) Failure to install, connect or operate in accordance with the Company's recommendation. Products returned under this warranty and found not to be defective will be returned to the Customer at the Customer's expense and may be subject to a charge for inspection, examination and testing by the Company.
- 5.4 This warranty shall be the sole liability of the Company in respect of the supply of defective products. All other conditions, warranties and guarantees whether express or implied by statute, common law or otherwise are hereby excluded; as are any other direct or consequential additional expenses or loss of profit.

## 6. Industrial Property Rights

The Company shall indemnify the customer against infringement of third party, patents, registered designs, trademarks or copyright arising directly from the supply of the Product.

6.1 The Customer shall promptly notify the Company in writing of any allegation of infringement.

6.2 The Customer shall make no admissions without the Company's consent.

6.3 The Customer shall, at the Company's request, allow the Company to conduct and/or settle all negotiations and litigation and shall give the Company all reasonable assistance. The costs incurred or recovered in such negotiations and litigation will be for the Company's account.

6.4 The Company shall not be liable under this provision for any loss of contracts, business or profits nor for any extra expenses or consequential losses.

## 7. Copyright

The copyright in all documents supplied by the Company in connection with the Contract shall at all times remain vested in the Company and neither they nor their contents shall be used without the Company's written consent for any purpose other than that for which they were supplied. On the termination of this Contract for any reason all such documents and any copies of them in the Customers possession shall be returned to this Company immediately.

## 8. No Assignment

The Contract is not assignable or transferable by either Party in whole or in part without the prior written consent of the other which shall not be unreasonably withheld.

## 9. Notices

Any notices given or required by the terms of this Contract shall be in writing and be forwarded by registered mail to the Company or Customer at their respective addresses at the head of this Contract.

## 10. Force Majeure

Neither Party shall be liable to the other in any way for any loss or damage arising directly or indirectly through or in consequence of performance being prevented or delayed by happenings or occurrences due to or by reason of any matters or things beyond the control of the respective Parties.

## 11. Termination

Either Party shall have the right to terminate this Contract if:

11.1 The other Party commits a material breach of the provisions of this Contract which is capable of remedy and is not remedied by such other Party within twenty-one (21) days of written notice specifying the nature of the breach.

11.2 The other Party makes arrangements with its creditors or suffers any distress or execution to be levied on its goods, or if it suffers a Receiver to be appointed or an order is made or resolution is passed for its winding-up (except a resolution for winding-up for the purpose of reconstruction or amalgamation only).

11.3 There is any change in control of the other Party.

11.4 Termination of the Contract for any reason shall be without prejudice to all accrued rights and remedies and shall not affect the continuing obligations of the Parties.

## 12. Default, Insolvency, Etc

12.1 Either Party shall have the right to terminate this contract forthwith if the other Party makes default or commits a material breach of this Contract or if any distress or execution shall be levied upon the other Party's property or assets or if the other Party shall make or offer any arrangement or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the other Party is a Limited

Company and any resolution or petition to wind up its business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of the undertaking, property or assets or any part thereof of the other Party (being a Limited Company) shall be appointed.

12.2 If the Company terminates this Contract in accordance with this clause, then, without prejudice to any other rights the Company may have, it shall be entitled:

12.2.1 to retain any advance payment made by the Customer, and

12.2.2 to suspend or determine any unfulfilled part of the Contract and

12.2.3 to halt any Goods in transit, and

12.2.4 either by an Agent or itself to have access to the Customer's premises for the protection, removal, realisation and disposal of any products at any time and from time-to-time in which the property shall not have passed from the Company to the Customer.

12.3 The granting by the Company to the Customer of time or any other indulgence forbearance or concession shall in no way prejudice or constitute a waiver of the Company's entitlement to enforce any of its rights under this Contract.