

Hardware – Additional Terms and Conditions

1. APPLICATION OF CONDITIONS

- 1.1. These hardware terms and conditions (**Terms**):
 - 1.1.1. apply to the hardware which You have agreed to purchase from Us pursuant to the relevant Statement of Work in the Agreement (**Hardware**); and
 - 1.1.2. apply in addition to, and prevail over any inconsistent terms or conditions contained in or referred to in the Statement of Work, or Terms and Conditions, or specification, or implied by law, trade custom, practice or course of dealing.
- 1.2. Defined terms in the Terms and Conditions shall have the same meaning within these terms.

2. QUANTITY AND DESCRIPTION

- 2.1. The quantity and description of the Hardware shall be as set out in the Statement of Work.
- 2.2. All samples, drawings, descriptive matter, specifications and advertising issued by Us and any descriptions or illustrations contained in Our catalogues or brochures are issued or published for illustrative purposes only and they do not form part of the Agreement.
- 2.3. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, invoice or other document or information issued by Us shall be subject to correction without any liability on Our part.
- 2.4. We reserve the right (but do not assume the obligation) to make any changes in the specification of the Hardware which are required to conform with any applicable legislation or which do not materially affect their quality or performance.
- 2.5. We shall use reasonable endeavours to transfer to You the benefit of any warranty or guarantee given by the manufacturer to Us.
- 2.6. Our employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Hardware.

3. DELIVERY OF HARDWARE AND ACCEPTANCE

- 3.1. We shall use our reasonable endeavours to deliver the Hardware on the date or dates agreed with You, but any such date is approximate only. Time is not of the essence as to the delivery of the Hardware and We shall not in any circumstances liable for any delay in delivery, however caused.
- 3.2. Delivery shall be made during normal business hours (excluding bank or public holidays). We may levy additional charges for any deliveries made outside such hours at Your request.
- 3.3. You shall be responsible (at the Your cost) for preparing the delivery location for the delivery of the Hardware and for the provision of all necessary access and facilities reasonably required to deliver and install the Hardware. If We are prevented from carrying out delivery or installation on the specified date because no such preparation has been carried out, We may levy additional charges to recover its loss arising from this event.
- 3.4. You shall be deemed to have accepted the Hardware when You have had 5 days to inspect it after delivery.
- 3.5. We shall be responsible for any damage, shortage or loss in transit, provided that the You notify Us (or its carrier, if applicable) within five days of delivery or the proposed delivery date of the Hardware and that the Hardware has been handled in accordance with Our stipulations. Any remedy under this clause 3.5 shall be limited, at Our option, to the replacement or repair of any Hardware which is proven to the Our satisfaction to have been lost or damaged in transit.

4. RISK AND PROPERTY

- 4.1. The Hardware shall be at Our risk until delivery to You at the place of delivery specified in by You. We shall off-load the Hardware at Your risk.
- 4.2. Ownership of the Hardware shall pass to You on the later of completion of delivery (including without limitation off-loading), or when We have received in full in cleared funds all sums due to it in respect of:
 - 4.2.1. the Hardware; and

4.2.2. all other sums which are or which become due to Us from You on any account.

4.3. Until ownership of the Hardware has passed to You under clause 4.2, You shall:

4.3.1. hold the Hardware on a fiduciary basis as Our bailee;

4.3.2. store the Hardware (at no cost to Us) in satisfactory conditions and separately from all Your other Hardware or that of a third party, so that it remains readily identifiable as Our property;

4.3.3. not destroy, deface or obscure any identifying mark or packaging on or relating to the Hardware; and

4.3.4. keep the Hardware insured on Our behalf for its full price against all risks with a reputable insurer to Our reasonable satisfaction and hold the proceeds of such insurance on trust for Us and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

4.4. Until ownership of the Hardware is transferred to You in accordance with clause 4.2, You grant Us, Our agents and employees an irrevocable licence at any time to enter any premises where the Hardware is or may be stored in order to inspect it.

4.5. On termination of the Agreement for any reason, Our (but not Your) rights in this clause 4 shall remain in effect.

5. REMEDIES

5.1. We shall not in any circumstances be liable for any non-delivery of Hardware (even if caused by Our negligence) unless You notify Us in writing of the failure to deliver within 5 days after the scheduled delivery date.

5.2. Our liability for non-delivery of the Hardware shall in all circumstances be limited to replacing the Hardware within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such Hardware.

5.3. If Our performance of Our obligations in these Terms is prevented or delayed by Your act or omission, You shall in all circumstances be liable to pay to Us all reasonable costs, charges or losses sustained by it as a result, subject to Our notifying You in writing of any such claim in this respect.

6. FORCE MAJEURE

We reserve the right to defer the date of delivery, or to cancel the Hardware portion of the Agreement or reduce the amount of Hardware ordered, if we are prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including without limitation strikes, lock-outs or other industrial disputes (whether involving Our workforce or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors (**Force Majeure Event**).