



QUALITY NETWORK SERVICES LIMITED

Terms & Conditions of Sale

1. DEFINITIONS

The 'Seller' means Quality Network Services Limited.

The 'Supply' means the supply of Products or Services described overleaf.

The 'Buyer' means the person who offers to buy or buys or has agreed to buy the Products or has requested the supply of Services

The 'Price' means the Price of Products or Services and any other charges specified overleaf.

The 'Contract' means the contract on the terms and conditions set out herein between the Seller and the Buyer for the sale and purchase of the Products or the supply of Services.

The 'Order' means an offer from the Buyer to buy the Products or Services described overleaf on the terms and conditions set out herein.

The 'Products' means the Products or Services described overleaf.

The 'Services' means only those services which the Seller may be required to supply under clause 11 and is not to be interpreted as meaning services which the Seller may be required to supply under a separate contract for services.

2. INCORPORATION OF CONDITIONS

(A) The Seller will be under no liability for any Order received until the Order is accepted by the Seller in writing.

(B) The terms and conditions herein contained shall apply to the Contract and any offer, order, acceptance, sale and/or delivery or any conduct in confirmation of any transaction will be subject to these terms and conditions which are the only basis upon which the Seller does business and shall prevail notwithstanding any printed or other conditions referred to in any purchase order or other document prepared by or on behalf of the Buyer.

(C) The Seller's catalogue price list and other advertising matter shall not form part of any Contract between Buyer and Seller.

(D) No other agreement, representation, promise, undertaking or understanding of any kind unless expressly confirmed in writing by a director, the company secretary or the financial controller of the Seller shall add to, vary or waive any of these terms and conditions. Other employees or agents of the Seller do not have the authority to vary or waive any of these terms and conditions in whole or in part.

3. SELLER'S RIGHTS

The Seller shall be entitled:

(A) To withdraw or cancel quotation at any time without liability in respect of such cancellation for any loss to the Buyer including consequential loss howsoever arising;

(B) To refuse or delay the Supply where the Buyer's credit or conduct of his account is unsatisfactory in the opinion of the Seller.

(C) To modify designs and specifications for Products without prior notification and withdraw Products replacing them with items of the equivalent specification.

4. QUOTATIONS

Orders placed upon a quotation are subject to confirmation by the Seller that the Seller accepts the same.

5. PRICES

(A) Notwithstanding any Price specified in the Order acceptance the Price of the Products shall be that applicable on the date of delivery. The Seller shall endeavour to maintain Prices quoted but the Seller reserves the right to increase quoted Prices at any time to take account of increase in costs including (without limitation) costs of labour, materials, carriage or other overheads.

- (B) Prices for the Products do not include unless otherwise specified:
- (i) Sales taxes (including VAT); (where applicable);
 - (ii) Insurance;
 - (iii) The cost of effecting delivery in accordance with Clause 7 hereof; and
 - (iv) Any special packing or alteration or installation to the order required by the Buyer.

6. TERMS OF PAYMENT

(A) The Sellers terms of payment are strictly as detailed in the enclosed document without deduction unless the invoice states otherwise.

(B) A claim or counterclaim or set-off shall not justify the Buyer withholding payment.

(C) The Seller shall be entitled to interest on invoice sums outstanding for more than 14 days from the date of invoice at the rate of 2% per month from the date of invoice to the date payment is received by the Seller.

(D) Failure by the Buyer to pay in accordance with the provisions of this clause shall entitle the Seller, without prejudice to its rights to damages, to suspend any outstanding deliveries or to cancel the Contract.

7. DELIVERY

(A) Any times quoted for delivery are estimates only and although the Seller will use all reasonable efforts to deliver the Products in accordance with the times specified, failure to comply with such time shall not constitute a breach of this Contract.

(B) Unless otherwise agreed in writing, the Seller shall be entitled to make partial deliveries by installments and the terms and conditions herein contained shall apply to each partial delivery.

(C) The risk in the Products passes to the Buyer on delivery of the Products to the Buyer by the Seller (or the Seller's nominated carrier) but where the Buyer nominates a carrier other than the Seller to deliver the Products, the risk shall pass to the Buyer when the Products leave the Seller's premises.

(D) Where the Buyer notifies the Seller that it is unable to take delivery of the Products in accordance with the time stated in the Order acceptance or within seven days of the Seller giving notice that the Products are ready for dispatch, the Seller shall endeavour to store the Products and the Buyer shall reimburse the Seller without delay all reasonable costs and storage charges incurred by the Seller until the time of delivery.

(E) Where the Products are to be delivered by installments or against call-off and the Buyer either:

(1) fails to accept any delivery when due or, in the case of call-offs, fails to accept outstanding deliveries within one month of the date of the Order acceptance; or

(2) defaults in making any payment when due,

then the Seller may cancel any or all subsequent deliveries and the Buyer shall compensate the Seller in full for any loss or expense arising from such cancellation and notwithstanding the Seller's duty to mitigate its loss shall compensate the Seller in full for the loss of the Price in respect of the goods ordered, but not delivered.

(F) The Buyer shall examine the Products on arrival and notify the Seller by facsimile transmission within 24 hours or by registered post within 3 working days of delivery of any damage or short delivery of the Products specified in the Order. If such notification is not received by the Seller, the delivery shall be deemed accepted by the Buyer.

8. TRANSFER OF PROPERTY

(A) Notwithstanding delivery to the Buyer, ownership in the Products shall remain with the Seller until the Buyer has paid the Price (whether or not due, invoiced or ascertained at the date of delivery) and all other outstanding amounts due or to become due to the Seller in respect of this or any other business transaction between the parties. Until such payment the Buyer shall 1) take all necessary measures for the protections of the Products including maintaining adequate insurance therefor and 2) not dispose of, whether by sale or otherwise, the Products or any part of them to any other party whatsoever.

(B) So long as the property in the Products remains in the Seller, the Seller shall have the right without prejudice to the obligation of the Buyer to purchase the Products, to re-take possession of the Products (and for that purpose to go upon any premises occupied by the Buyer).

(C) If any one of the events referred to below happens, notice thereof is to be given immediately to the Seller by the Buyer. Furthermore, all Products which are the property of the Seller pursuant to the provisions of Clause 8 and are in the possession of the Buyer shall be delivered immediately to the Seller. Without prejudice to the Buyer's duty to make

delivery as aforesaid, the Seller upon receiving notice from whatever source of the happening of any one of the said events, shall also have the right during normal business hours to enter upon the said land or buildings of the Buyer to take possession of the Seller's Products.

The events referred to above are:

- (a) Any notice to the Buyer that a receiver or manager is to be or has been appointed;
- (b) Any notice to the Buyer that a petition to wind-up the Buyer or for an Administration Order in respect of the Buyer, is to be or has been presented or any Notice of a resolution to wind-up the Buyer (save for the purposes of a reconstruction or amalgamation);
- (c) A decision by the Buyer that the Buyer intends to make an arrangement with its creditors;
- (d) Any act of bankruptcy as defined by Section 1 of the Bankruptcy Act 1914.

(D) The Buyer shall not create or allow to be created any right in the Products in favour of any third party. If the Buyer breaches any of the provisions of this sub-paragraph the value and the outstanding amounts on the Order shall immediately and notwithstanding any contractual term to the contrary become payable.

(E) Until the payment specified in sub-paragraph A hereof the Buyer will not dispose of the Products in question, but will store the same taking the safeguards specified above in (A).

9. CANCELLATION OF CONTRACT

A Contract cannot be cancelled except with the Seller's consent and on terms which will indemnify the Seller against all loss.

10. SELLER'S LIEN

The Seller shall have a general as well as a particular lien on all goods, materials or any other property of the Buyer which shall be in the possession of the Seller in respect of any unpaid account of the Buyer (whether or not in relation to the Products, materials or other property of the Buyer).

11. WARRANTY

(A) The Seller will endeavour to ensure that the Buyer receives the benefit of any guarantee or warranty which may have been given to the Seller by a third party manufacturer.

(B) The Buyer is responsible for instructing itself on the terms of such guarantee or warranty and ensuring that any conditions are fully complied with.

(C) In cases where no guarantee or warranty is offered by the manufacturer or supplier, or any act of the Seller has invalidated such guarantee or warranty, if the Buyer shall notify the Seller in writing within 14 days from the date of delivery that the Products supplied by the Seller were defective, or within 7 days in the case of software, the Seller will replace or repair at their discretion the Products proved to be defective. Defective means any defect in physical workmanship of the Product and specifically to the recording media in the case of software. However, such remedy is only available to the Buyer provided that the Products shall be brought back to the Seller's premises at the Buyer's expense.

(D) The Buyer must ensure that the Products are serviced, maintained and used properly and in accordance with the Seller's recommendations (and any guarantee or warranty) and are not fitted or used with any parts, accessories or ancillary equipment other than those recommended by the Seller or stated by the Seller to be suitable.

(E) During the warranty period set out in Clause 11(C) above, no attempt must be made by the Buyer or any third party to remedy any defect or to dismantle or otherwise tamper in any way with the Products except in accordance with specific instructions, directions and/or requests of the Seller.

12. LIMITATIONS OF LIABILITY

(A) Subject to the provisions of Clauses 11 (A) and (C) above and to Section 6 of the Unfair Contract Terms Act 1977 and with the exception of those implied by Section 12 of the Sale of Goods Act 1979 all conditions and warranties whether express or implied by Statute or Common Law and whether oral or written are (unless specifically confirmed by the Seller in writing) excluded and negated.

(B) With the exception of any liability on the Seller's part in respect to death or personal injury resulting from the Seller's negligence, the Seller's liability shall not in any event exceed the Price of the Products in respect of which a claim is made, nor include any consequential loss or damage howsoever arising provided always that this sub-clause shall not apply to the extent that the buyer requires to be covered by insurance and pays the Seller the amount of the insurance premium (to be determined by the Seller) required for such cover.

(C) In cases where the Seller is asked to recommend Products to meet the Buyer's requirements the Seller does not warrant that purchase of the Products will satisfy the Buyer's requirements. All recommendations of Products by the Seller are therefore estimates only and the Seller can accept no responsibility if any Products supplied fail to meet the Buyer's requirements or to achieve any particular level of performance.

(D) The Buyer is advised that the Seller is not liable for any losses consequent to any loss or non-retrieval of data or programs from computer disk or tape for any reason.

(E) Making duplicates of software must be strictly in accordance with the rights granted by individual software manufacturers. The Buyer must satisfy itself that it has the right to duplicate or copy software. The Seller makes no representation thereto

13. END USER (Software)

The Products sold by the Seller under this contract or any copies or reproductions of any part of such Products made in any manner or form whatsoever are for the sole use of the Buyer and its employees and cannot be sold, hired, leased or licensed to, or used by, any other person unless that Buyer obtains the prior written consent of the Seller.

14. PERSONNEL

The Buyer agrees not to approach or employ the Seller's personnel to work for them in any capacity for a minimum period of six months after such personnel leave the employment of the Seller except with the express written permission of the Seller. In the event that the Buyer engages any of the Seller's personnel, the Buyer shall pay an introduction fee of 26 weeks, or the equivalent, of the engaged person's remuneration.

15. FORCE MAJEURE

The Seller shall be under no liability for any delay or failure of the Products to perform in the event that the manufacture, supply or delivery of the Products is prevented or delayed by any act or circumstances beyond the Seller's reasonable control including, but not limited to Act of God, act of terrorism, legislation, war, fire, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a trade dispute or owing to any inability to procure materials required for the performance of the Contract.

16. WAIVER AND SEVERANCE

(A) Any indulgence granted by the Seller to the Buyer and any failure by the Seller to insist upon strict performance of these terms and conditions shall not be deemed a waiver of any of the Seller's rights or remedies nor be deemed a waiver of any subsequent default by the Buyer.

(B) The invalidity in whole or in part of any clause in these terms and conditions shall not affect the validity of the remainder of such clause or these terms and conditions.

17. ASSIGNMENT

The Contract is not assignable by the Buyer without the written consent of the Seller and is between the Seller and the Buyer as principals, but the Seller may without consent assign or sub-contract all or any of its rights and obligations hereunder.

18. TERMINATION

If the Buyer becomes insolvent or in the opinion of the Seller is likely to go into bankruptcy, receivership or liquidation, or makes default in or commits a breach of the contract, the Seller may forthwith terminate the contract without incurring liability to the Buyer and without prejudice to the Seller's rights which may have accrued up to the date of termination

19. GOVERNING LAW

The interpretation and application of the Contract shall be in accordance with English Law and both parties hereby agree to submit to the exclusive jurisdiction of the English Courts.

20. HEADINGS

Headings to clauses in these Terms and Conditions are included for the purpose of ease of reference only and shall not have any effect on the construction and interpretation of the Terms hereof.

21. NOTICES

Any notice or document to be given under these Terms and Conditions shall be given by sending the same in a pre-paid letter or by cable, telex or facsimile transmission to the address of the relevant party set out in the Contract or to such other address as such party may have notified to the other for the purposes hereof. Any notices sent by post shall be deemed (in the absence of evidence of earlier receipt) to have been delivered 2 working days after dispatch and in proving the fact of dispatch it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and posted. Any notice sent by cable, telex or facsimile transmission shall be deemed to have been delivered on the next working day following its dispatch.