

WIRELESS EXCELLENCE LIMITED of
The Oxford Science Park, G6, Magdalen Centre, Robert Robinson Avenue, Oxford OX4 4GA

GENERAL TERMS AND CONDITIONS FOR THE SALE OF GOODS
AND THE PROVISION OF SERVICES

1. Definitions and Application

(A) In these conditions :

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

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

"The Buyer" means the immediate purchaser of the goods from the seller

"The Contract" means the relevant contract to which these conditions apply

"The Goods" means the goods (including any instalment of the goods or any parts for them which the seller is to supply in accordance with these conditions)

"The Seller" means Wireless Excellence Ltd

"The Stated Price" means the agreed price for the goods stated in a contract of sale to which these conditions apply

"Writing" includes telex, cable, facsimile transmission and comparable means of communication

(B) The contract shall be governed by and interpreted in accordance with English Law, and the customer submits to the jurisdiction of the High Court of Justice in England. The Seller reserves the right to enforce the contract in any court of competent jurisdiction.

(C) The uniform laws on international sales shall not apply.

THE BUYER'S ATTENTION IS DRAWN IN PARTICULAR TO THE CLAUSES
HEREOF WHICH EXCLUDE OR LIMIT THE SELLERS LIABILITY AND THOSE
WHICH REQUIRE THE BUYER TO INDEMNIFY THE SELLER IN CERTAIN
CIRCUMSTANCES

2. Scope of the Contract

(A) No variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

(B) Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the goods which is not confirmed in writing by the Seller and is followed or acted upon entirely at the Buyer's own risk the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

(C) Quotations are not binding on the Seller, who may refuse to accept any order and may withdraw it before acceptance of order. An order shall be deemed to

be accepted only when the Seller has sent written acceptance or has commenced work upon, or despatched or otherwise appropriated items for performance of the order.

- (D) Acceptance will be subject to these conditions and the express terms of the quotation and no qualification or condition contained in any request for quotation, order or other communication from the Buyer or any such quotation which is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer shall form any term of the Contract unless expressly accepted in writing by a Director of the Seller.
- (E) Orders are accepted subject to the credit status of the Buyer being satisfactory to the Seller, and the Seller may cancel the Contract if its credit enquiries about the Buyer at any time prove unsatisfactory.
- (F) Acceptance of the quotation must be accompanied by all information necessary for the Seller to proceed with the Contract. If work is delayed or additional costs incurred through lack of such information or changes in information, the Seller may amend the Contract price to cover the additional costs and/or extend the delivery date.
- (G) The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of, any representations which are not confirmed.
- (H) The Seller shall incur no liability to the Buyer for misrepresentation by virtue of any such misrepresentation.
- (I) 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 the Seller shall be subject to correction without any liability on the part of the Seller.

3. Orders and Specifications

- (A) The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- (B) The quantity, quality and description and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- (C) If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with the specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller 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 the Seller's use of the Buyer's specifications.

(D) The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

4. Commissioning

(A) "The Goods" supplied by the Seller must be commissioned and aligned by the Seller or approved installer/engineer.

(B) Approval of installers/engineers shall be at The Seller's discretion, based upon attendance and certified qualification of official product training course.

(C) Official product training courses must be arranged and conducted by The Seller's approved trainers.

(D) All warranties mentioned herein are subject to clause (4).

5. Delivery

(A) Unless the acknowledgement of order expressly provides otherwise, delivery of the Goods shall normally be made to the Buyer's address on the delivery date. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

(B) The Seller will make such arrangements for carriage and any insurance which the Buyer reasonably directs it to make as it thinks appropriate and the Seller shall not be liable to the Buyer in any way for the arrangements so made.

(C) The Buyer will indemnify the Seller against any costs or expenses the Seller may incur in making those arrangements.

(D) The Goods shall be treated as having been delivered to the Buyer as soon as they are delivered to the carrier.

(E) The Goods shall be at the Buyer's risk from the moment they are delivered to the carrier.

(F) The Seller may deliver the Goods by separate instalments. Each separate instalment may be separately invoiced by the Seller and should be paid for in accordance with these conditions.

(G) The failure of the Buyer to pay for any one or more of the said instalments of the Goods on the due dates shall entitle the Seller (at the sole option of the Seller) :

i. Without notice to suspend further deliveries of the Goods pending payment by the Buyer; and/or

ii. To treat the Contract as repudiated by the Buyer.

(H) The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all.

- (I) Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) promptly or at all.
- (J) The Buyer shall promptly obtain all necessary import licences, export licences, clearances and other consents necessary for the purchase of the Goods. The Seller shall promptly upon request supply all documents reasonably required by the Buyer for this purpose.
- (K) It is a condition of the Contract that the Buyer will give the Seller adequate instructions for the delivery of the Goods within seven days of being notified by the Seller that the Goods are ready for delivery. If the Buyer fails to give instructions for delivering the Goods within that period, the Seller may exercise either of the following rights without prejudice to any other right or remedy available to the Seller :
- i. Treat the failure to give instructions for delivery of the Goods as a repudiation of the Contract and terminate the Contract with immediate effect; in that case the Seller may also do any or all of the following :
 1. Dispose of the Goods as it thinks fit;
 2. Retain all payments made by the Buyer prior to termination;
 3. Recover damages from the Buyer in respect of (i) the costs of storing the Goods, (ii) the costs of arranging for their disposal and (iii) any other losses suffered as a result of the Buyer's breach or as a result of termination of the Contract;
 - ii. Arrange for the storage of the Goods; in that case
 1. The Goods shall be at the Buyer's risk as regards all loss or damage;
 2. The Buyer will be responsible for the costs of storing the Goods and will reimburse the Seller all expenses incurred in connection with such storage;
 3. The Buyer will pay the Seller all fees incurred for its services in connection with the storage of the Goods.

6. Force Majeure

- (A) The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control :
- i. Act of God, explosion, flood, tempest, fire or accident.
 - ii. War or threat of War, sabotage, insurrection, civil disturbance or requisition.
 - iii. Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any Governmental, Parliamentary or Local Authority.

- iv. Import or export regulations or embargos.
- v. Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party).
- vi. Difficulties in obtaining raw materials, labour, fuel, parts or machinery.
- vii. Power failure, breakdown in machinery and technology fault to include but not limited to the loss of any data or a failure in communication.

(B) If performance of the Seller's obligations is delayed or hindered by circumstances outside the Seller's control or listed above amounting to force majeure, the following provisions shall apply :

- i. The Seller will as soon as reasonably practicable give the Buyer notice of the reasons for the delay or hindrance. However, failure to give such notice will not prevent the Seller relying on the remaining provisions of this clause, and the Seller will incur no liability for failure to give such notice.
- ii. The Seller's duty to perform shall be suspended for as long as the circumstances amounting to force majeure continue, and the time for performance of the Seller's obligations shall be extended by a period equal to the duration of those circumstances.

7. The Price and Payment

(A) The price shall be the Seller's quoted price. The price is exclusive of any applicable Value Added Tax which shall be due at the rate on the date of the Seller's invoice and which the Buyer shall be liable to pay.

(B) Unless expressly agreed in writing, payment of the price and Value Added Tax shall be due 30 days after the date of the Seller's invoice and the Seller shall be entitled to recover the price even though property has not then passed to the Buyer and notwithstanding that delivery may not have taken place. Payment is deemed to be made when the Seller's Bank account is credited with the amount due with cleared funds. The Seller may invoice and apply for payment of each shipment separately.

(C) Unless otherwise stated therein all prices quoted will lapse in any event thirty days after the date of issue of the quotation after which time the prices quoted may be altered by the Seller without giving notice to the Buyer.

(D) The Buyer shall make all payments hereunder in full, without deduction, set-off or counterclaim whatsoever from or against the same except as required by law and regardless of any delays in delivery or performance or any corrections or adjustments that may be necessary to the Goods.

(E) The time for performance of the Buyer's obligations (whether as to payment or otherwise) shall be of the essence so that failure to perform shall entitle the Seller at its options to treat the Contract as repudiated by the Buyer or to delay shipment or otherwise withhold performance (in which event the Seller's time for performance shall be extended accordingly) in the case of delivery by instalments, failure to perform in respect of one shipment shall entitle the Seller at its option to cancel or delay or withhold performance in respect of that shipment or to treat the whole contract as repudiated by the Buyer.

(F) The Buyer may not cancel the Contract either in whole or part without the express permission in writing of The Seller. In the event of such cancellation, penalty charges may be applied subject to the following computation:

More than 90 days before agreed delivery date 25% of price

90 days or less but greater than 60 days before agreed date 30% of price

60 days or less but greater than 30 days before agreed date 50% of price

30 days or less before agreed delivery date 100% of price

(G) If the Goods have been described as "specials" on the quotation or the written confirmation of the order the cancellation charge shall be 100% of price regardless of when written notification of cancellation is received and accepted by the Seller.

(H) If any monies payable by the Buyer to the Seller are not paid when due or if the Buyer is in breach of any of its obligations (whether under the Contract or any other agreement with the Seller) or becomes bankrupt, enters into liquidation, has an administration order made in respect of it or suffers the appointment of a receiver to all or any of its assets or the Buyer ceases or threatens to cease to carry on business, the Buyer shall immediately pay to the Seller all monies payable by the Buyer under the Contract or any other agreement with the Seller (whether or not otherwise due for payment) and without prejudice to any other rights or remedy.

(I) The Seller shall have the following rights without prior notice to The Buyer in respect of the Contract and every other agreement with the Buyer :

- i. To suspend or cancel the delivery of any further goods and any other performance by the Seller (and if suspended the Seller's time for performance shall be extended accordingly);
- ii. To terminate all or any part of the Contract and any unexecuted Contract with the Buyer.

(J) The Buyer shall pay to the Seller by way of full indemnity all costs of any nature incurred by the Seller arising from the breach by the Buyer (including, but not limited to, all legal costs on a full indemnity basis).

(K) The Buyer shall pay interest (after as well as before Judgment) on any monies payable by the Buyer to the Seller which are not paid when due at an annual rate of twelve percentage points above the base rate of Lloyds Bank Plc from time to time compounded with monthly rests calculated from the date of due payment until the date of actual payment.

(L) In the event of variation or suspension of work due to the Buyer's instructions, the Seller by written notice to the Buyer may increase the price by such an amount as it reasonably considers will fairly compensate for additional cost thereby incurred by it.

(M) The Seller by notice to the Buyer at any time before delivery, may increase the Price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond its control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant to increase in the costs of labour, materials or other costs of the manufacturer)

any change in delivery dates, quantities or specifications of the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

(N) Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

8. Risk and Retention of Property

(A) In spite of delivery having been made property in the Goods shall not pass from the Seller until :

- i. The Buyer has paid the price plus Value Added Tax in full and the Seller has received in cash or cleared funds payment in full.

(B) Until property in the Goods passes to the Buyer in accordance with Clause 8(a), The Buyer shall store, protect and insure the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that there are clearly identified as the Seller's property.

(C) Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdrawn Bank account and shall be at all material times identified as the Seller's money.

(D) The Seller shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the Goods has not passed from the Seller.

(E) Until such time as property in the Goods passes to the Buyer from the Seller and in the event of any action deemed to be in breach of the terms and conditions herein, the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned occupied or controlled by the Buyer or any third party where the Goods are situated and repossess the goods.

(F) The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable without prejudice to any other right or remedy of the Seller.

(G) The Buyer shall insure and keep insured the Goods to the full price against ALL RISKS to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

(H) The Seller shall be entitled to apply payments received from the Buyer in satisfaction of whichever invoice or part thereof as the Seller shall in its absolute discretion decide and shall be entitled to vary such application as many times as it shall desire until such time as all sums owing by the Buyer to the Seller have been paid.

(I) Risk of loss of or damage to the goods shall pass to the customer at the time of delivery.

9. Guarantee

(A) Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in materials or workmanship for a period of twelve months from the date of delivery. The Seller's liability in respect of any warranty shall be performed on a return-to-base basis, and limited to replacing or repairing without charge the defective Goods or part thereof.

(B) The above warranty is given by the Seller subject to the following conditions :

- i. The Buyer shall have notified the Seller of any claim based on any defect(s) in writing within seven days of the relevant defect(s) becoming apparent. If delivery is not refused and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Goods and the Seller 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;
- ii. If requested by the Seller, the Buyer shall have returned such defective goods or part thereof suitably packaged and at the Buyer's risk describing the circumstances in which such goods or part thereof became defective;
- iii. Such defect shall have been proved by the Buyer to be attributable to the Seller and to have arisen solely from faulty design materials or workmanship;
- iv. The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
- v. The Seller 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 the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;
- vi. The above warranty does not extend to parts, materials or equipment not supplied by the Seller, in respect of which the Buyer shall be entitled only to benefit of any such warranty or guarantee as is given by the manufacturer to the Seller;
- vii. The Buyer has performed its obligation hereunder and has paid the price plus Value Added Tax in full in accordance with the Seller's payment terms;

viii. Before returning the Goods to the Seller, the Buyer shall obtain from the Seller a returns authorisation number which shall be quoted when the Goods are returned. Failure to return the Goods within one month of being advised of a return authorisation number shall mean that the relevant payment for the Goods is due in full.

(C) Subject as expressly provided in these conditions and except where the Goods are sold under a consumer sale (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.

(D) Where the Goods are sold under a consumer sale (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these conditions.

(E) The guarantee shall apply only to the Buyer.

(F) Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss or profit or otherwise), costs, expenses, or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer. The entire liability of the seller under or in connection with the contract shall not exceed the price of the goods, except as expressly provided in these conditions.

(G) All transport fees in respect of product return whether within or outside of product warranty shall be paid by The Buyer and shall not be deemed as The Seller's responsibility in line with clause 9(f).

(H) Return of goods must be with the express consent of The Seller and in accordance with The Seller's official returns procedure.

10. Protection of Intellectual Property

(A) The Buyer shall not cause or permit anything which may damage or endanger the intellectual property of the Seller in the Goods or the Seller's title to it or assist or allow other so to do.

(B) The Buyer must notify the Seller of any suspected infringement of the intellectual property of the Seller in the Goods.

(C) The Buyer shall take such reasonable action as the Seller may direct at the expense of the Seller in relation to such infringement.

(D) The Buyer must affix such notices to the Goods or their packaging or their associated advertising material as the Seller may direct

(E) The Buyer shall compensate the Seller for any use of the intellectual property of the Seller otherwise than in accordance with these terms and conditions or as permitted by the Seller.

- (F) The Buyer shall not use any name or mark similar to or capable of being confused with the tradename or trademark of the Seller.
- (G) The Buyer shall not at any time disclose or (save for operation of the Goods) use any confidential information or knowledge as to methods of manufacture, plans, drawings, price lists, documents or other information relating to the goods of the Seller.
- (H) Where the Goods include a computer programme, the Buyer agrees not to copy or disclose or alter the programme without the prior written consent of the Seller and will in all other respects comply with the terms of any licence granted to the Buyer which relate to the use of such computer programmes.
- (I) The specifications and designs of the Goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the property of the Seller. Where any designs or specifications have been supplied by the Buyer for manufacture by or to the order of the Seller then the Buyer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of goods shall not infringe the rights of any third party.

11. Product Liability

- (A) The Buyer shall use all reasonable endeavours to ensure that the Goods are operated in accordance with the instruction manuals supplied with the Goods and shall provide all relevant personnel with all necessary training in respect of the Goods.
- (B) The Buyer shall ensure that all warnings displayed on the Goods or the packaging at the time of delivery shall not at any time be removed, defaced or otherwise obscured and further the Buyer shall contractually pass such obligation to any third party recipient of the Goods.
- (C) The Buyer shall indemnify the Seller against any loss suffered as a result of the Buyer being in breach of any part of this term.

12. Liability

- (A) The Seller shall not be liable to the Buyer or any person claiming through the Buyer for damage to any of the Buyer's property in the possession of the Seller (whether as consignee or otherwise) or for any injury caused to any person by such property by reason of any cause beyond the reasonable control of the Seller.
- (B) In no event shall any delay failure or omission on the part of the seller in enforcing exercising or pursuing any right power privilege claim or remedy, which is conferred by these terms and conditions or arises under the contract, or arises from any breach by the other party of any of its obligations hereunder, be deemed to be or be construed as (i) a waiver thereof, or of any other such right power privilege claim or remedy, or (ii) operate so as to bar the enforcement or exercise thereof, or of any such right power privilege claim or remedy, in any other instance at any time or times thereafter.
- (C) If any provision of this Agreement is held in whole or in part to any extent to be illegal or unenforceable under any enactment or rule of law such provision

shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected

13. Delegation and Assignment

(A) The Seller may delegate its performance under the Contract and may assign any of its rights or benefits thereunder.

14. Notices

(A) Any notice required to be given under this Contract shall be deemed to be served in the following circumstances :

- i. If sent by prepaid first class post to the party to whom it is given at its last known address, in which case it shall be effective on the third day after posting;
- ii. If sent by fax or telex to the recipient's fax or telex number, in which case it shall be effective on the next working day after transmission.