

These are the sole terms of sale of Unity Communications Ltd (the "Seller") and shall govern all transactions between the Seller and any customer of the Seller (the "Buyer") save as otherwise expressly agreed in writing by the Seller. These terms and conditions apply in preference to and supersede any terms and conditions referred to, offered to or relied on by the Buyer whether in negotiation or at any stage in the dealings between the Seller and the Buyer in respect of the equipment, goods or services supplied by the Seller to the Buyer as specified by the Seller (any combination of which shall be referred to as the "Product").

1. Purchase of the Product

1.1 The Seller reserves the right to make such variations in the composition or specification of Product as it considers necessary or desirable, provided that any Product as varied is not substantially different in performance or characteristics from that which was ordered

2. Pre-Installation Consultancy

2.1 If required by the Buyer a pre-installation consultancy ("Consultancy") shall be undertaken by the Seller to ascertain the Buyer's requirements for the Product

2.2 Such Consultancy shall include, where necessary and to the extent required by the Buyer, visits to the Buyer's premises for assessment purposes, the drafting of a pre-implementation Consultancy Report ("the Report") which shall include draft specifications for the Product and such Consultancy and any part thereof shall be subject, where relevant, to the Conditions

2.3 In the event that specifications are drawn up in the course of a Consultancy, these specifications shall be discussed with and agreed by the Buyer. Once agreed the agreed specifications (the "Specifications") will form the basis of the contract between the Buyer and the Seller and these Conditions shall continue to apply thereto

2.4 In cases where the Buyer does not request a Consultancy and has ordered a Product in accordance with its own specifications, subject to Clause 7.1 the Seller can accept no liability in respect of the provision of any Product which complies with the Buyer's specification

3. Delivery and Installation

3.1 All dates for shipment delivery or installation of Product stated in the Order Form are approximate only and shall not be of the essence in any agreement between the Buyer and the Seller. The Seller will use all reasonable endeavours to effect shipment delivery or installation within the stipulated period or, if no such period is stipulated, within a reasonable time

3.2 The Buyer shall not be entitled to refuse delivery of the Product by virtue of any delay in installation or delivery on the part of the Seller unless the Buyer shall give written notice of such delay to the Seller and the Seller does not effect delivery and/or installation of the Product within 30 days of receipt of such notice

3.3 In circumstances where the Seller provides Consultancy to the Buyer in accordance with the provisions of Clause 2 the Buyer shall have 10 working days from installation of the Products to use the system and notify to the Seller any amendments that it requires to be made to the System in order that it shall comply with the Specifications and, to the extent that such necessary amendments are agreed between the Buyer and the Seller, the System shall be adjusted accordingly at the Seller's expense

3.4 If the Buyer does not notify the Seller in accordance with the provisions of Clause 3.3 above, either within 10 working days of the original installation or within 10 working days of the installation of the system as adjusted under the terms of Clause 3.3 then the Buyer shall be deemed to have accepted that the Product meets the Specifications and that such Specifications are suitable for the Buyer's needs

4. Payment

4.1 Unless otherwise stated on the Order Form the Buyer shall pay for the Product on signing the Order Form overleaf. In the event that the Seller elects not to accept the order, payment therefore will be returned to the Buyer within 5 working days of receipt of the same

4.2 In the event that payment is not required to be made with the Order, payment shall be due in accordance with the terms stated in the Order, the payment schedule on the face thereof or in any more detailed payment schedule attached thereto

4.3 The amounts payable are exclusive of VAT which shall be charged additionally as applicable

4.4 The cost of any travel, accommodation or other out-of-pocket expenses incurred by the Seller in complying with these terms and conditions and with the terms of any Report is not included in the amounts shown on the Seller's Order Form and shall be invoiced by the Seller to the Buyer in addition to such amounts at the Seller's rates prevailing at that time

4.5 Interest (as well after judgement as before) will be charged by the Seller on all outstanding invoices at 4% above the base lending rate of Midland Bank Plc from time to time from the due date for payment until payment

4.6 In the event the Buyer is declared bankrupt or insolvent or compounds or makes any arrangement with its creditors or has distress levied against its goods or assets or has a Receiver or Liquidator appointed the Seller shall have the right to suspend delivery of the Product notwithstanding that this Agreement shall have been signed by the Seller

4.7 Any right of set-off whatsoever in favour of the Buyer against the Seller is hereby excluded

4.8 In the event that the Buyer fails to take delivery of the Product other than in accordance with Clause 3.2, the Buyer shall pay to the Seller an amount equal to 25% of the purchase price for the Product as shown on the Seller's Order Form and the Buyer shall pay any expenses incurred by the Seller prior to cancellation by the Buyer

4.9 The Seller may bring an action to recover any sums due to it under this agreement even though title to the Product has not then passed to the Buyer

4.10 The Seller may appropriate any payment made by the Buyer and apply it in total or partial satisfaction of any debt then due from the Buyer to the Seller

4.11 Where the amount paid by the Buyer is less than the amount due to the Seller under the contract to which it is appropriated the Seller may appropriate the payment to any individual goods or item supplied under that contract

5. Loss or Damage in Transit

5.1 Where applicable, the risk in the Product passes to the Buyer when delivered to the delivery address agreed between the Buyer and the Seller and set out on the Seller's Order Form or when delivered to the Buyer's carrier, whichever shall be earlier

5.2 Any complaint or claim by the Buyer in respect of any damage, shortage or loss incurred in respect of the Product in transit shall be made by the Buyer to the Seller within ten working days of delivery and any such damage, shortage or loss shall in any event be subject to any exclusion or limitation of liability contained in Clause 7 below

6. Warranty

6.1 The Seller shall provide the Buyer with the benefits of a guarantee against defects in manufacture in the same terms, as the warranty given by the original supplier of the product to the Seller

6.2 The guarantee excludes liability for any failure due to Buyer's incorrect storage, installation, handling, natural wear and tear or other cause arising through no fault of the Seller

7. Exclusion of Liability

7.1 The Seller hereby accepts liability in the event of death or injury to any person arising out of the negligence of the Seller or its agents or employees

7.2 To the extent permitted by law and subject to the provisions of Clause 7.1 the Seller hereby excludes liability for any loss or damage whatsoever to the Product or any other goods or property of the Buyer arising in any way whatsoever including breach of contract, breach of any statutory provisions or implied terms and/or as a result of the negligence of the Seller or its servants or agents

7.3 The Seller shall not be liable in any event for any direct consequential or indirect losses suffered by the Buyer arising in any way whatsoever including without limitation to the generality of the foregoing from breach of contract or in tort or as a result of the negligence of the Seller or its servants or agents and including any loss of income, loss of profits or loss of interest or opportunity

7.4 The Seller shall not be liable in any circumstances for any consequential or indirect losses incurred by the Buyer as a result of delayed installation or delivery for whatever reason notwithstanding that dates for such may have been agreed by the Seller

7.5 The Seller shall not be liable for any failure of, or delay in, performance of any contract or part thereof in pursuance of these terms and conditions which is due wholly or partially to the imposition, application or enactment of any law or statutory regulation (whether of the United Kingdom or elsewhere) by any competent authority, strikes, lock-outs, failure of other suppliers to supply the Seller, an act of God or natural disaster or other cause or occurrence reasonably beyond the control of the Seller

7.6 Subject to the provisions of Clause 6 hereof all warranties in respect of the Product whether implied by statute or common law, made expressly or otherwise are hereby excluded to the extent permitted by law

7.7 The Seller shall not be required to perform or complete the performance nor shall it incur any liability for failure to carry out the terms of the contract with the Buyer if at the relevant time the Buyer is in breach of any obligation to the Seller under this or any other contract for the supply of goods or services to the Buyer by the Seller. The Seller shall have a reasonable time after such a breach is remedied to carry out its obligations hereunder. If such a breach is not remedied within a reasonable time the Seller shall have the right on giving reasonable notice to the Buyer to terminate this contract and shall have the same remedies against the Buyer as if there had been a breach by the Buyer of a term of this contract enabling the Seller to rescind it

7.8 To the extent permitted by law no action arising out of the sale of the Product may be brought by the Seller after 2 years from the date at which the cause of action accrued

8. Title

8.1 Legal and beneficial ownership of the Product shall remain with the Seller until it has received payment in full for the Product

8.2 During such time as the Seller retains title to the Product in accordance with clause 8.1 the Buyer acknowledges that it holds the Product in a fiduciary relationship as the Seller's bailee and agrees that it will store the Product so as to identify it as the property of the Seller and keep it free at all times from any charge or encumbrance

8.3 At any time prior to payment in full (whether or not payment is overdue from the date of invoice) the Seller may retake possession of the Product and may enter upon the Buyer's premises by its employees or agents for this purpose (and such action shall be without prejudice to any other rights of the Seller in respect of the Product) and it is provided that the Buyer shall accept in respect of all Product repossessed in accordance with these terms and conditions any credit note raised or issued by the Seller in respect of value added tax or other lawful charges or tariffs levied by the Seller on the Buyer in respect of the Product

9. General

9.1 No delay or failure on the part of either party to exercise or enforce any rights or remedies pursuant to the terms of this Agreement shall constitute a waiver of such rights or operate to prejudice the exercise of any such rights at any time thereafter

9.2 Any headings to clauses or sub-clauses are for convenience only and shall not affect the interpretation or construction thereof

9.3 These terms and conditions shall be construed in accordance with and governed by English law and subject to the jurisdiction of the English courts

10. Confidentiality and Data Protection

10.1 The Customer agrees to keep all Confidential Information confidential, to disclose it only to its employees that need to know it and use it exclusively for the purposes contemplated by the Agreement. This clause shall not apply to information that the Customer can prove: is in the public domain otherwise than by the Customer's breach; it already had in its possession prior to obtaining the information directly or indirectly from the Company; or a third party subsequently disclosed to the Customer free restrictions on disclosure and use. This Clause shall survive for three (3) years from when the Customer acquired that Confidential Information from the Company.

10.2 The Company and the Customer shall each comply with their respective obligations under the DPA and maintain all relevant registrations and notifications.

10.3 We may collect and process the following data about the customer: information which We collect or which the Customer submits to the Company during any sales or registration process; information the Customer provides when filling in forms or by corresponding with the Company by phone, e-mail or otherwise. This includes information the Customer provides when it requests the Services. The information the Customer gives to We may include names, addresses and phone numbers of users of the Services and of the Customer and financial and credit card information.

10.4 The Customer agrees that We may contact BT or previous communications service providers of the Customer to obtain information required to perform the Services.

10.5 The Customer agrees that We may use information held about the Customer and users of the Services in the following ways: to open and manage an account for the Services, to deliver products and services ordered by the Customer, for security and emergency service support, for credit checking and fraud prevention, and for product analysis; to carry out the Company's obligations arising from any contracts entered into between the Customer and the Company and to provide the Customer with the information, products and services that it requests from the Company; to notify the Customer about changes to services.

10.6 The customer agrees that We may share information and data provided by the Customer including Personal Data of users of the Services to: the Company's Network Operator to enable it to process the Customer's information and Personal Data, which We collect or which the Customer submits to the Company during any sales or registration process; any member of the Company's group, which means the Company's subsidiaries, ultimate holding company and its subsidiaries, as defined in section 1159 of the UK Companies Act 2006.

10.7 The Customer agrees that We may disclose information and data provided by the Customer including any users Personal Data to third parties: in the event that the Company sells or buys any business or assets, in which case We may disclose such information and Personal Data to the prospective seller or buyer of such business or assets; and if the Company or substantially all its assets are acquired by a third party, in which case information and Personal Data held by the Company about its customers will be one of the transferred assets; and if the Company is under a duty to disclose or share the Customer's information and Personal Data in order to comply with any legal obligation, or in order to enforce or apply these Terms and other agreements; or to protect the rights, property, or safety of the Company, its customers, or others. This includes exchanging information with other companies and organisations for the purposes of fraud prevention and credit risk reduction.

10.8 The Customer shall ensure that the relevant individuals and users of the Services have been informed of, and have given their consent to, such use, processing, and transfer of their Personal Data, as required by the DPA and as set out in this clause 14.