



TRANSACT

TRANSFORM

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RECYCLE

# General Terms and Conditions of Purchase of Hardware Only

## Short Form

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## 1. BASIS OF CONTRACT

1.1. These terms and conditions below ("**Conditions**") apply to the agreement ("**Contract**") between Bell-TS Netherlands B.V. or its Group Company ("**Customer**") and the Supplier for the sale and purchase of computer and telecommunications equipment and all cabling and peripherals associated with such equipment ("**Hardware**") set out in the Customer's order ("**Order**"). Once the Order is issued by the Customer, the Contract is formed between the Customer and the Supplier. These Conditions shall apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate within its quotation, or which are implied by trade, custom, practice or course of dealing.

## 2. DEFINITIONS

2.1. "**Group Company**" means any undertaking which from time to time is a parent undertaking of Bell-TS Netherlands B.V. or a subsidiary of Bell-TS Netherlands B.V. or of any such parent undertaking (the terms parent undertaking and subsidiary being interpreted in accordance Article 2:24a sub 1 of the Dutch Civil Code (Burgerlijk Wetboek)).

## 3. PROVISION OF HARDWARE

- 3.1. The Supplier shall make available all standard information made available by the manufacturer without charge along with the Hardware relating to the installation, use and/or operation of the Hardware ("**Documentation**").
- 3.2. Unless expressly stated otherwise in the quotation, the Customer is responsible for providing any cabling, wiring and any other equipment needed for the installation of the Hardware or its connection to or interfacing with any other equipment, system or network.
- 3.3. Unless expressly stated otherwise in the quotation, delivery of Hardware shall not include installation which shall be the Buyer's responsibility.

## 4. WARRANTIES

4.1. The Supplier warrants, represents and undertakes to the Customer that, for the period of two (2) years from the date of Customers or Customer end user's receipt of the Hardware ("**Warranty Period**"):

- 4.1.1 the supply of the Hardware and their use for their intended purpose shall not infringe the intellectual property rights of any third party;
- 4.1.2 it will comply with all relevant anti-bribery legislation ("**Anti-Corruption Laws**") and anti-slavery legislation and anti-slavery legislation ("**Anti-slavery Laws**");
- 4.1.3 it gives the warranties more specifically set out in the Order;
- 4.1.4 the Hardware will:

- 4.1.4.1 comply with all legislation and government regulations applicable to a party's rights and obligations set out in this Contract from time to time ("**Applicable Laws**") relating to the Hardware at the time of delivery;
- 4.1.4.2 conform to quality, quantity, description, specification and standards (if any) stated or referred to in the Order;
- 4.1.4.3 be of suitable materials and workmanship and executed with reasonable care and skill by suitably qualified and

experienced personnel in accordance with good industry practice;

4.1.4.4 be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended); and

4.2 if the purpose for which they are required is indicated in the Order, either expressly or by implication, be fit for that purpose. The Supplier shall pass to the Customer for its own benefit and the benefit of its end users, the benefit of all manufacturer and other third-party warranties and/or guarantees relating to the Hardware.

## 5. BREACH OF WARRANTY

5.1 If, during the Warranty Period the Hardware does not comply with the warranties in Condition 6.1, then without prejudice to any other rights and remedies of the Customer arising under the Contract, the Supplier shall, either (i) promptly remedy the breach at the Supplier's own cost; (ii) replace the Hardware to comply with the Contract; or (iii) provide a refund to the Customer for the price of the non-compliant Hardware.

## 6. DELIVERY

- 6.1 The Supplier shall deliver the Hardware to the delivery location on the delivery date set out in the Order or as amended in writing between the parties from time to time, during the hours of 9.00 am to 5.30 pm GMT ("**Normal Business Hours**") on a day other than a Saturday, Sunday or a bank holiday in the jurisdiction of the Customer ("**Working Day**").
- 6.2 The Supplier shall deliver the quantity stated in the Order and if there is any shortfall the price shall be adjusted accordingly.
- 6.3 The Hardware shall be delivered in accordance with Incoterms 2020, Delivery Duty Paid ("**DDP**").
- 6.4 Unless stated otherwise in the Order, the Supplier will be responsible for import clearance, including paying all applicable local duties and taxes.
- 6.5 The Hardware shall be delivered on the delivery date specified in the Order, or if there is no date specified, delivery of the Hardware shall be within a reasonable time.
- 6.6 Time for delivery shall be of the essence of the Contract
- 6.7 If the Hardware is not delivered on the delivery date or is delayed beyond a reasonable period of time, then, without limiting any other right or remedy the Customer may have, the Customer may: (a) refuse to take any subsequent attempted delivery of the Hardware; or, (b) terminate the Contract with immediate effect without any liability to the Customer.
- 6.8 The Supplier shall ensure that: (a) the Hardware is marked in accordance with the Customer's instructions as set out in the Order and any Applicable Laws; (b) properly packaged and stored so as to reach their destination in an undamaged condition; and, (c) each delivery is accompanied by a prominently displayed delivery note and all handling, storage, operating and safety instructions.
- 6.9 The Supplier agrees on request to provide the Customer with any necessary declarations and documents stating the origins of any Hardware.
- 6.10 The Supplier shall make available all standard information made available by the manufacturer without charge along with the Hardware relating to the installation, use and/or operation of the Hardware (the "**Documentation**") provided by the manufacturer of the Hardware.
- 6.11 Unless expressly stated otherwise in the Order, the Customer is responsible for providing any cabling, wiring and any other

equipment needed for the installation of the Hardware or its connection to or interfacing with any other equipment, system or network other than that usually supplied by the manufacturer, with the Hardware.

6.12 Unless expressly stated otherwise in the Order, delivery of Hardware shall not include installation which shall be the Customer's end user's responsibility.

6.13 The Supplier shall comply with the Customer policies (including but not limited to the Customer charter) as made known to the Supplier by the Customer from time to time.

6.14 The Supplier shall co-operate with any regulatory authority as required from time to time.

6.15 The Customer or end user reserves the right to mark the Hardware immediately on delivery. This is undertaken for the purposes of security and the Customer shall not be deemed to have accepted the Hardware by reason of this nor shall the Supplier be entitled to raise an objection on this ground to any subsequent rejection of the Hardware.

6.16 The Customer may terminate all or part of the Contract at any time by giving written notice via email to the Supplier. If the Supplier has not purchased Hardware which is capable of re-sell prior to the date of termination, then such termination shall be without liability on the part of the Customer. If the Supplier has incurred reasonable costs which cannot be otherwise avoided, the Customer will be given an option to pay such reasonable costs or continue with the Contract.

6.17 The Customer shall be responsible for ensuring the delivery location is ready and able to take delivery on the delivery date and the Customer shall not unreasonably refuse to take delivery at any other time.

6.18 The Supplier shall be entitled to charge for any additional costs reasonably incurred as a result of the Customer's failure to comply with Condition 6.19.

6.19 When seeking to return any Hardware that is the subject of a claim under any of the Warranties, the Customer shall comply with the returns procedure of the manufacturer or Supplier of the Hardware.

## 7 PRICE AND PAYMENT

7.1 The Customer shall pay all undisputed invoices within sixty (60) days from the receipt of the invoice unless expressly stated otherwise in the Order.

7.2 The Supplier may invoice the Customer for the Hardware in accordance with the payment dates referred to in the Order if the Hardware has been delivered in accordance with the Contract and the Customer has notified the Supplier promptly by issuing a goods receipt note.

7.3 The Customer shall only be liable to pay any amounts in addition to the price if expressly stated in the Order or agreed to in writing between the Parties.

7.4 The Supplier shall not be entitled to invoice the Customer later than ninety (90) days following receipt of a goods receipt note from the Customer and the Customer shall not be obliged to pay the Supplier for such Services after such ninety (90) days has elapsed. For the avoidance of doubt, this Condition shall not apply where any delay has been caused by the Customer's failure to provide the goods receipt note. If any amount due to the Supplier is subject to any withholding tax or deduction by the Customer then, the Customer will gross up the payment so that the Supplier receives the agreed amount and the surplus is remitted to the relevant tax authority.

7.5 If any amount due to the Supplier is subject to any withholding tax or deduction by the Customer then, the Customer will gross up the payment so that the Supplier receives the agreed amount and the surplus is remitted to the relevant tax authority.

7.6 The Customer may cancel an Order at any time but shall be liable for all costs and expenses incurred by the Supplier as a result of such cancellation. The Supplier shall use reasonable endeavours to avoid or minimise such costs and expenses.

## 8 TITLE AND RISK

8.1 Risk in the Hardware shall pass to the Customer on delivery to the delivery location.

8.2 Title to the Hardware shall pass on delivery provided that the Supplier does not retain title of the Hardware until payment has been received. The Supplier will confirm this to the Customer if such is the case. For the avoidance of doubt, the Supplier shall ensure that the Customer has the ability to resell the Hardware as part of its ordinary course of business prior to the title passing into the Customer.

8.3 All Hardware rejected or returned for any reason shall be at the risk and expense of the Customer during transit back.

8.4 The passing of title shall not prejudice any other of the Customer's rights and remedies and the Customer may use or resell the Hardware in the ordinary course of its business.

## 9 ACCEPTANCE

9.1 The Customer shall notify the Supplier of the criteria upon which the acceptance of such Hardware by the Customer shall be tested ("**Acceptance Criteria**"), if applicable.

9.2 The Customer shall have a reasonable time from the delivery date to inspect the Hardware in order to evaluate its compliance with the Contract and to measure the Hardware against the Acceptance Criteria ("**Acceptance Test**") and shall inform the Supplier that either (i) the Hardware has passed the Acceptance Test and the Customer accepts the Hardware; or (ii) the Hardware has failed to pass the Acceptance Test.

9.3 Where the Hardware fails the Acceptance Tests, the Customer may exercise the following options, without prejudice to any other remedies available to it and at the Suppliers cost and expense (i) require the Supplier to use reasonable endeavours to correct all faults or defects in the Hardware in a timely manner so that the Hardware can pass the Acceptance Tests (ii) reject the Hardware and terminate the Contract on written notice with immediate effect (iii) request refund the price paid for the Hardware (iv) require the Supplier to facilitate the return of any non-compliant Hardware to the originating manufacturer. Where option (i) is exercised, the Acceptance Test shall be repeated within a reasonable time.

9.4 If no Acceptance Test is conducted within the period specified in Condition 9.2, then within such reasonable time after delivery date the Acceptance Test shall be deemed to have taken place.

## 10 CONFIDENTIALITY

10.1 The Supplier shall:

10.1.1 protect all information, disclosed by the disclosing party, or its employees, officers, advisers, agents or representatives ("**Representatives**"), pursuant to the Contract, including but not limited to, financial, end customer information, business or technical or other data and all other confidential information (whether written, oral, visual or in electronic form or in magnetic or other media) ("**Confidential Information**") and, in doing so, must use no less than the equivalent degree of care that such party applies to its own Confidential Information which shall in no case be less than a reasonable standard of care;

10.1.2 have internal systems to ensure that Confidential Information is stored and handled in such a way as to prevent unauthorised disclosure;

10.1.3 procure that its personnel and any third parties do not; disseminate, copy, employ, exploit, adapt, modify or in any other manner whatsoever utilise the Confidential Information other than strictly for the provision of Maintenance. For the avoidance of doubt, the Supplier shall be liable for all acts and/or omissions of its personnel and any third parties.

10.2 The obligations contained in Conditions 10.1.1 to 10.1.3 shall not apply to any Confidential Information which: (a) is lawfully in the possession of the Supplier prior to receipt from the disclosing party, as reasonably evidenced in writing; (b) is or becomes publicly known, other than as a consequence of a breach of the Contract; (c) can be reasonably evidenced by written records that it has been developed

independently by the Supplier without access to, use of, or incorporation of the Confidential Information; (d) is required to be disclosed by a court of competent jurisdiction or operation of law, provided the Supplier, where reasonably practicable, provides notice to the Customer of such disclosure; (e) is received from a third party without breach of any other relevant confidentiality obligations.

10.3 The Supplier shall not disclose to any third party the terms upon which it has licenced the Software to the Customer or Authorised Users, without the Customer's prior written consent unless required to do so by law.

## 11 DATA PROTECTION

11.1 For the purpose of this Condition 11, "Controller", "Personal Data" and "Process" shall have the meanings given to them in

11.2 The Data Protection Act 2018 unless and until: (a) the General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR") is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then (b) any successor legislation to the GDPR or the Data Protection Act 2018 ("Data Protection Legislation");

11.3 The Parties each acknowledge and agree that they may need to Process Personal Data (in their respective capacities as Controllers) in order to (as appropriate): (a) administer and provide the Hardware ; (b) request and receive the Hardware ; (c) compile, dispatch and manage the payment of invoices relating to the Hardware ; (d) manage the Contract and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Hardware ; and (f) comply with their respective regulatory obligations.

11.4 Each party shall Process Personal Data for the purposes set out in Condition 11.2 in accordance with their respective privacy policies. The Parties acknowledge that they may be required to share Personal Data with their affiliates, group companies and other relevant parties, within or outside of the country of origin, in order to carry out the activities listed in Clause 11.2, and in doing so each party will ensure that the sharing and use of this Personal Data complies with DPA.

11.5 Where the Supplier is Processing end user Personal Data, the Customer will require the Supplier to agree to a data protection agreement with the end user directly. A copy of this agreement will be provided to the Supplier.

## 12 CUSTOMER MATERIALS

12.1 The Supplier including any of its employees, agents, consultants, contractors and sub-contractors shall:

12.1.1 not store, copy, disclose, or use material which is made available or supplied by the Customer or the Customer's end user to the Supplier ("Customer Materials") except as necessary for the performance by the Supplier of its obligations under the Contract or as otherwise expressly authorised in writing by the Customer; and

12.1.2 take all precautions necessary to preserve the integrity of Customer Materials and to prevent any corruption, destruction or loss of data relating to the Customer or the Customer's end users which is processed, stored, generated, or capable of access by, or which otherwise comes into the possession of, the Supplier or any of its employees, agents, consultants, contractors and sub-contractors.

## 13 INSURANCE

13.1 The Supplier agrees to take out and maintain insurance in respect of employer's liability, public liability and professional liability as is commercially prudent and reasonable with a reputable insurance company The Supplier shall provide the Customer with a copy of such insurance certificates upon request in order to verify the extent and level of insurance cover taken out by the Supplier and the payment of the relevant premiums.

## 14 IPR INDEMNITY

14.1 The Supplier shall indemnify and hold the Customer harmless from and against any and all liability or damage (including reasonable and verifiable costs and expenses) suffered or incurred by the Customer and arising from any action, claim or proceedings brought against the Customer by a third party alleging that the proper possession or use of the Hardware and/or Software by the Customer infringes such third party's IPR ("Claim") provided that: (a) the Supplier is given prompt written notice of such Claim; (b) is given information, reasonable assistance, and exclusive authority to defend or settle the Claim; (c) that the Customer complies with all reasonable instructions of the Supplier with regard to the continuing use of the Hardware and/or Software; and that Customer does not prejudice the Supplier's defence or settlement of the Claim.

## 15 LIMITATION OF LIABILITY

15.1 Neither party excludes or limits its liability to the other for:

- 15.1.1 personal injury or death caused by its negligence;
- 15.1.2 any matter for which, Applicable Laws, a party cannot exclude or limit or attempt to exclude or limit its liability;
- 15.1.3 breach of Condition 10 (Confidentiality); breach of Condition 11 (Data Protection); breach of Condition 18 (Intellectual Property); and
- 15.1.4 fraud or fraudulent misrepresentation.

15.2 Subject to Condition 15.1, neither party shall have any liability to the other party for any indirect, special or consequential loss, loss of profits, loss of revenue, loss of savings, damage to reputation or goodwill or loss of data.

15.3 Subject to Clause 15.1 and 15.2, each party's total liability to the other for breach of contract, tort, breach of statutory duty or otherwise shall not exceed:

- 15.3.1 £10 million (ten million) per claim for liability resulting from negligence;
- 15.3.2 £10 million (ten million) per claim for all liability arising from defects in the supplied products;
- 15.3.3 for all other liability, 150% of the total charges paid or payable by the Customer to the Supplier under the Contract.

## 16 Anti-bribery, Corruption and Facilitation of Tax Evasion

16.1 The Supplier shall and shall procure that persons associated with it or other persons who are performing services in connection with the Contract shall:

16.1.1 comply with all applicable laws statutes, regulations ,and codes relating to anti-bribery and anti-corruption, Bribery Act 2010 and Criminal Finances Act 2017 (**Relevant Requirements**);

16.1.2 not engage in any activity, practice or conduct which would constitute an offence under the following sections:

- 16.1.2.1 a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
- 16.1.2.2 a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017; or
- 16.1.2.3 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK.

16.1.3 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 and to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier) and to ensure compliance with **Error! Bookmark not defined.**16.1.2;

16.1.4 notify Customer (in writing) if it becomes aware of any breach of clause 16.1.1. or clause 16.1.2, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with the performance of this Contract;

16.1.5 immediately notify Customer (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as

- direct or indirect owners, officers or employees at the date of this agreement);
- 16.1.6 if requested, provide Customer with any reasonable assistance, at the Customer reasonable cost, to Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with Relevant Requirements.
- 16.1.7 within [NUMBER] months of the date of this Contract, and annually thereafter, certify to Customer in writing signed by an officer of the Supplier, compliance with this clause 16 by the Supplier and all persons associated with it under clause 16.2. The Supplier shall provide such supporting evidence of compliance as Customer may reasonably request.
- 16.2 The Supplier shall ensure that any person associated with the Supplier who is performing services in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 16 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Customer for any breach by such persons of any of the Relevant Terms.
- 16.3 Any breach of this clause 16 shall be deemed a material breach and a Party shall terminate under clause 19.
- 17 ANTI-SLAVERY**
- 17.1 The Supplier undertakes, warrants and represents that:
- 17.1.1 It, its sub-contractors will comply with all Applicable Laws relating to the prevention of slavery (“Anti-slavery Laws”);
- 17.1.2 neither the Supplier nor any of its officers, employees, agents or sub-contractors have: (a) committed an offence under the; or (b) been notified that it is subject to an investigation relating to an alleged offence or prosecution under Anti-slavery Laws; or (c) it is not aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged offence or prosecution under Anti-slavery Laws;
- 17.1.3 it shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or sub-contractors have breached or potentially breached any of the Supplier’s obligations under this Condition 17.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier’s obligations.
- 17.2 Any breach of Condition 17.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle the Customer to terminate the Contract with immediate effect.
- 17.3 The Supplier shall seek to impose upon its sub-contractors (or any third party within its supply chain) similar provisions to those in this Condition 17.
- 18 INTELLECTUAL PROPERTY RIGHTS**
- 18.1 Any intellectual property rights includes but is not limited to; patents, designs and trade marks (whether registered or unregistered), copyright, database rights and know how (collectively, “**IPR**”).
- 18.2 Nothing in this Contract shall transfer any IPR from one party to the other party and the Supplier or its licensor, shall retain ownership of all IPR in the Hardware.
- 18.3 The Customer hereby authorises the Supplier to use any IPR in materials provided to it by the Customer for the purposes only of performing its obligations under the Contract for the duration of the Contract.
- 18.4 The Customer acknowledges that the Hardware may contain any software licensed by a third party at no additional charge and embedded in or pre-loaded on the Hardware and necessary for the proper functioning of the Hardware (“**Embedded Software**”). Ownership of the Intellectual Property Rights in Embedded Software does not transfer to the Customer or the Customer’s end user and its possession and use are subject to the licence terms of the licensor.
- 18.5 The Supplier hereby grants (or shall procure the grant of) the right for the Customer and Customer’s end user to possess and use the Hardware for the purposes for which the Hardware has been supplied.
- 18.6 The Customer shall not remove, deface or obscure any identifying or proprietary mark on or relating to the Hardware.
- 18.7 The Supplier shall indemnify and hold the Customer harmless from and against any and all liability or damage (including reasonable and verifiable costs and expenses) suffered or incurred by the Customer and arising from any action, claim or proceedings brought against the Customer by a third party alleging that the proper possession or use of the Hardware by the Customer infringes such third party’s IPR.
- 19 TERMINATION**
- 19.1 Either party may by written notice terminate the Contract if the other party is in material breach of any Condition(s) of the Contract, which is either (i) not capable of remedy; or (ii) being capable of remedy, has not been remedied within thirty (30) days after written notice from the other party requiring it to do so.
- 19.2 Either party may terminate the Contract at any time with immediate effect if:-
- 19.2.1 a resolution is passed, or an order is made for the winding up (or equivalent order in the relevant jurisdiction) of the other party, otherwise than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction;
- 19.2.2 the other party becomes subject to an administration order; a liquidator, receiver or administrative receiver or similar is appointed over any of its property or assets;
- 19.2.3 the other party enters into an arrangement or composition with its creditors, ceases or threatens to cease to carry on business, becomes insolvent or ceases to be able to pay its debts as they fall due;
- 19.2.4 the other party suffers any event analogous to 19.2.1 to 19.2.3 (inclusive) in any other jurisdiction;
- 19.2.5 the other Party commits a breach under Condition 16 (Anti-Bribery and Corruption) or Condition 17 (Anti-Slavery); or
- 19.2.6 a Force Majeure Event (defined in Condition 25.1) continues for a period of sixty (60) days.
- 19.3 If the Contract is terminated: (i) the Contract shall continue in force to the extent necessary to give effect to those of its provisions which expressly or by implication have effect after termination; and (ii) the rights of either party accrued on or prior to termination shall remain unaffected.
- 19.4 Upon early termination of the Contract in accordance with its terms by either party, where the Customer has paid the Supplier the price for Hardware that has not been supplied at the date of termination, the Supplier shall, upon demand, either repay such price to the Customer or deliver the Hardware to the Customer.
- 20 AUDIT AND INSPECTION**
- 20.1 The Customer is entitled to carry out an audit of the Supplier in accordance with the terms of this clause. Such audit shall be carried out no more than once per annum, upon providing thirty (30) days prior written notice.
- 20.2 The Supplier shall:
- 20.2.1 allow the Customer, its auditors, authorised agents and/or representatives, access on any Working Day to such records held by the Supplier (including the right to make copies thereof), subject to any confidentiality undertaking required by the Customer; and
- 20.2.2 provide all reasonable assistance for the purposes of auditing the Suppliers compliance with the Contract in its performance of the provision of Hardware.
- 20.3 If any audit or inspection by or on behalf of the Customer reveals any material breach by the Supplier of its obligations under the Contract in carrying out the provision of Hardware, the Customer may, without prejudice to any other remedies it may have, require the Supplier to:
- 20.3.1 remedy the cause of such non-compliance as soon as reasonably practicable;
- 20.3.2 carry out a further audit within six (6) months on the same basis; and/or

20.3.3 refund the Customer all reasonable and verifiable third party costs and expenses relating to such audit or inspection (including those of third party advisors).

## 21 ASSIGNMENT AND SUB-CONTRACTING

21.1 The Supplier shall not assign, transfer or sub-contract its rights or obligations under the Contract without the Customer's prior written consent. Any such consent shall not relieve the Supplier of its obligations under the Contract.

## 22 NOTICES

21.2 Where the Contract requires notice to be given by one party to the other such notice shall be in writing and shall be delivered by hand, e-mail, courier, first class post or special delivery post to the following:

22.1.1 in the case of delivery to the Customer, to the CFO or General Counsel (or equivalent) at the Customer's address in the Contract;

22.1.2 in the case of delivery to the Supplier to a Director at the Supplier's registered office address; and

22.2 Notices sent by e-mail, must be sent to an email address previously used by the receiving party for the purposes of issuing or receiving Orders and which the sender has reasonable grounds to believe is in use, if a non-automated confirmation of receipt is not received with 24 hours of sending then another method of delivery shall also be used but this shall not affect the deemed receipt of the e-mail.

22.3 Notices will be deemed to have been duly served if delivered by hand or by courier at the time of delivery; if delivered by first class post or special delivery post 48 hours after being posted, if by email at the time of sending, provided that where in the case of delivery by hand or courier such delivery occurs either after 4.00 pm on a Working Day, or on a day other than a Working Day, service will be deemed to occur at 9.00 am on the next Working Day.

22.4 In the case of communications relating to the Contract which do not relate to matters where the Contract requires notice to be given, communications may take place by email between the parties using then current e mail addresses usually used between the parties.

## 23 SEVERABILITY

23.1 If any Condition(s) under the Contract are deemed or found to be invalid or unenforceable by a court of competent jurisdiction, such provisions shall be deemed omitted, all other provisions shall remain in full force and effect.

## 24 THIRD PARTY RIGHTS

24.1 Save for the Indemnified Persons, a person who is not a party to the Contract may not enforce the Contract.

## 25 FORCE MAJEURE

26.1 Neither party shall be liable for the failure to perform its obligations under the Contract, if such failure results from any circumstance or event which is beyond such party's reasonable control, that was not known or reasonably foreseeable by the affected party at the date of the relevant Contract and which prevents that party from performance of its obligations under this Contract in whole or part including but not limited to; acts of God, fire, flood or earthquake, war, civil commotion affecting a third party (for which a substitute third party is not readily available), government action, regulations, guidelines, terrorist attack, computer or network failure or malfunction, strikes or industrial action other than by that party's employees, provided that, where possible, the Parties have taken reasonable steps to avoid such events ("**Force Majeure Event**").

26.2 Each party agrees to give notice forthwith to the other upon becoming aware of a Force Majeure Event, such notice to contain details of the circumstances giving rise to the Force Majeure Event.

26.3 A party which relies upon a Force Majeure Event to excuse performance may only do so if it has taken reasonable steps to mitigate the effects upon it of the Force Majeure Event and continues to perform the obligations that are not affected.

## 27 VARIATION AND WAIVER

27.1 No variation of this Contract shall be effective unless it is in writing and signed by the parties.

27.2 A waiver of any right or remedy under this Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

27.3 A failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy under this Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## 28 ENTIRE AGREEMENT

28.1 The Contract contains all the terms which the Customer and the Supplier have agreed in relation to the supply of the Hardware and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Hardware. The Supplier's standard terms and conditions referred to in any correspondence or quotation form shall not apply to the Contract. The Supplier acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by or on behalf of the Customer which is not set out in the Contract and agrees that it shall have no claim in respect of the same. Nothing in the Contract will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

## 29 NO PARTNERSHIP, JOINT VENTURE, AGENCY OR EMPLOYMENT

29.1 Nothing contained in the Contract, and no action taken by the parties pursuant to the Contract, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. Neither party has, nor may it represent that it has, any authority to act or make any commitments on the other party's behalf.

## 30 PUBLICITY

30.1 The Supplier shall not: (a) make any public announcement or issue any public circular (including a media or press release) relating to the Contract or its subject matter without the prior written approval of the Customer; or (b) use the name or logos of the Customer and member of its group of companies or of its customers, as a reference or in any advertising or promotional materials without the Customer's prior written consent (on every occasion), which may be withdrawn at any time if it is given.

## 31 JURISDICTION AND GOVERNING LAW

31.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed at all times in accordance with Dutch Law and the parties submit to the exclusive jurisdiction of the courts of The Netherlands. The Vienna Sales Convention (CISG) will expressly not apply.