

The following terms and conditions shall apply to the contract to be entered into between the Company and the Customer

1. In these conditions “the Company” means Kite Systems Communications Ltd and “the equipment” means the hardware, software, connections, manuals, and data hereby agreed to be sold.

2. Until such time as the Company has accepted in writing the sales order submitted on behalf of a customer the Company has no legal obligation to the customer contractually or otherwise.

3. In the event of the customer being in default of payments due under this agreement, the Company may in its entire discretion withhold further performance of its obligations.

4. The Company shall carry out its obligations for the price indicated save the Company shall be entitled to charge the customer for increased costs incurred as a result of changes made in the customers requirements, tax increase on equipment arising after order is made but before delivery or installation, and additional work required to be carried out by the Company as a result of circumstances arising that the Company were not aware of nor could reasonably foresee at the date of the order being accepted.

5. All equipment sold shall be subject to an additional charge for V.A.T. at the current rate where appropriate.

6. All payments by the customer shall be made promptly in accordance with the time or times detailed on the order or where no time is shown then payment shall be made immediately upon delivery of the equipment, time being of the essence of the contract in respect of payment prior to the end of the current period.

7. The Company shall be entitled to be paid on an interim basis upon part performance of at least one third of the value of the contract and payment by the customer shall be made immediately upon receipt of an interim invoice in this respect (Time being of the essence). In the event that payment is delayed or refused by the customer then the Company shall at its discretion be entitled to delay performance of the remainder of the contract without liability arising there from for any consequential loss arising to the customer.

8. The Company shall be entitled to charge interest on any late payment of monies due from the customer at the rate of 5% above the base rate from time to time of Barclays Bank.

9. Any indication given by the Company as to the date and time of performance and completion of the contract are estimated only and under no circumstances whatsoever can time of performance and completion be of the essence of the contract or give the customer any right to rescind or terminate the contract. The Company shall not be liable for any consequential losses arising as a result of its inability to perform and complete the contract within the given time estimate.

10. Where the Company has agreed to do so, the method of delivery and installation of the equipment shall be carried out at the entire discretion of the Company.

11. The customer shall carry out at its own expense and preparation or alteration reasonably necessary to the Premises at which the equipment is to be installed, in accordance with any directions given by the Company and in good time for the installation to take place. The Company shall be allowed access to the premises of the customer at all reasonable times to carry out and complete the installation.

12. The Company shall not be contractually obliged to comply with or otherwise modify its normal installation practices in order to satisfy any regulations applicable to the customer rather than of general application unless agreed in writing at the time of the sales order being accepted.

13. If the customer fails or refuses to accept the equipment on delivery or permit access for installation of the same then the Company may at its discretion treat the contract as terminated without prejudice to its right to claim damages for breach of contract against the customer.

14. Title to all equipment delivered to and installed at the customer premises shall remain in the ownership of the Company until such time as all payments due in relation thereto have been paid by the customer to the Company and until such time the customer shall keep the equipment in good condition and fully insured for replacement value and shall hold the proceeds of any insurance claim in relation thereto upon Trust for the Company.

15. The customer hereby grants to the Company an irrevocable license to enter onto the premises of the customer to recover the equipment and any property belonging to the Company at any time without notice up to the date that the customer has paid all monies arising and payable to the Company under this contract.

16. The Company shall not be liable for any loss of damage suffered by the customer, except when it arises through the willful default of the Company or (in respect of death or personal injury) through its negligence. The Company shall not be liable whether such loss or damage is direct, indirect or consequential, however it arises, including (but without prejudice to the generality of the foregoing) loss or damage due to the failure of the electricity supply or attributable to fluctuating mains, outside electro-magnetic interference of any fault in public network lines or equipment or any failure by the Customer to operate the equipment properly. For the purpose of this sub-clause, indirect or consequential loss or damage shall include (without prejudice to the generality thereof loss of profits or income or business of whatsoever kind.)

17. The customer hereby agrees that it accepts (and at its discretion and at its own expense take out and maintain insurance cover in relation to) any risk that might arise in relation to the supply and operation of the equipment not covered hereunder by the Company or referred to in the guarantee provisions.

18. The Company shall retain all rights to any copyright patent invention and intellectual property in the equipment and the customer shall not acquire any such rights in the equipment and in particular the customer is not permitted to manufacture copy of otherwise imitate any equipment supplied.

19. The Company shall at its discretion be entitled to treat the contract as terminated, but without affecting its right to claim for any breaches of contract arising, in the event of the following:-

- Distress or execution is levied on the customers assets
- b) A winding up petition or Bankruptcy petition is presented (save in relation to a members voluntary petition in respect of an amalgamation or reconstruction)
- c) A Receiver is appointed or the customer enters or proposes to enter into an individual voluntary arrangement under the Insolvency Act 1986.

20. Upon termination of the contract the Company shall be discharged without liability from any obligation to perform or complete anything outstanding under the contract and all monies due to be paid by the customer shall immediately become payable forthwith to the Company.

21. In the event that the Customer wishes to cease or transfer the Services to an alternative supplier a minimum notice period of 90 days prior to the end of the current contract period applies, unless otherwise stated within the signed contract.

22. In the event that the required notice is not received in writing on headed paper by recorded delivery, the contract will automatically be extended by a period of 12 months from the anniversary of the previous contract.

23. Kite Systems Communications Ltd reserves the right to reject any request to transfer services if the customer is either in contract or has outstanding debts of over 30 days.

24. In the event that traffic is taken away mid-month service charges will be billed to the end of that current month. All call charges will be billed up until the date traffic is ported away.

25. In the event that notice is given within the required period prior to their end of agreement, the customer has a further 30 days from the end date of the current contract to transfer services to an alternative supplier. If the customer does not transfer services within this period a further 12 month contract will apply.

26. In the event that a customer transfers services away to an alternative supplier without giving notice as per the conditions set within, the customer will then be billed to the end of the current contract period based on an average of the previous 3 months bills.

27. In the event that a customer utilizes an alternative supplier for all or part of their outbound calls during the current contract period the client will then be billed the difference to the end of the current contract period based on an average of the previous 3 months bills.

28. In the event that any term or condition or any word or words thereof of this contract is held by a Court of Law to be void or unenforceable for any reason then that term or condition shall be treated as being of no effect but the remainder of these terms and conditions shall continue with full force and effect notwithstanding.

29. These terms and conditions shall constitute the entire conditions under which the sale shall be conducted and unless made by a Director of the Company no variation or amendment or deletion shall have effect. The customer warrants that no reliance has been placed on any representation made whether express or implied save where given in writing in a document signed on behalf of the Company.

30. This contract is personal to the customer and the customer shall not be entitled to assign the benefit thereof to any other person.

31. These terms and conditions (unless agreed in writing otherwise) shall apply to all future sales or supply of equipment to the customer.

32. We may, at any time, and at our sole discretion, modify these Terms and Conditions of Use, with or without notice to the User. Any such modification will be effective immediately upon public posting. Your continued use of our Service and this Site following any such modification constitutes your acceptance of these modified Terms.

### **Maintenance Contracts**

1. Kite Systems Ltd will provide a level of maintenance service as specified, on the equipment as detailed above Kite Systems Ltd is not liable for any loss of business or other consequential loss of the customer, arising from any defects in, or performance of the equipment, or to render service supplies due to causes beyond its control.

2. Such service shall be provided subject to the customer having paid the annual premium as specified below, or a superseded rate as notified in writing to the customer. Such payments shall have been cleared.

3. All such service shall be provided between the hours of 8.30am - 5.30pm Monday to Friday inclusive, but excluding Bank or Public Holidays (unless otherwise stated) and will include our labour only (all parts may be chargeable) to ensure that the equipment is maintained in good working order.

4. Kite Systems Ltd shall not be obliged: a) to carry our repairs or provide replacement equipment or alterations due to wilful act, default, negligence or the use of supplies not approved by Kite Systems Ltd; b) to provide service outside the hours of 8.30am - 5.30pm (unless otherwise stated).

5. The customer shall notify in writing any such additions or changes to the equipment that have not been investigated by Kite Systems Ltd.

6. This contract may be terminated by: a) the customer providing a minimum of 90 days notice in writing prior to the end of the current contract period to Kite Systems Ltd; b) Kite Systems Ltd by providing a minimum of 90 days in writing to the customer; c) either party, being an individual committing an act of bankruptcy or having a receiving order made against him, or being a company becoming insolvent, having winding up

proceedings commenced against it or a receiver of all or part of it prior to the end of the current period.

7. In the event that the required notice is not received in writing on headed paper by recorded delivery, the contract will automatically be extended by a period of 12 months from the anniversary of the previous contract.

8. All Hardware and Software is to be supplied by Kite Systems Ltd during the specified period.

9. We may, at any time, and at our sole discretion, modify these Terms and Conditions of Use, with or without notice to the User. Any such modification will be effective immediately upon public posting. Your continued use of our Service and this Site following any such modification constitutes your acceptance of these modified Terms.