

Syscomm Terms & Conditions of Supply

1. DEFINITIONS

1.1 "Customer" means the party identified as the Customer in this Agreement to whom Syscomm agree to supply Products in accordance with these terms and conditions.

1.2 "Syscomm" means Syscomm Limited of Syscomm House, Park Road, Kenilworth, Warwickshire CV8 2GF.

1.3 "Products" means goods or services including but not limited to computer hardware and software items and support services to be provided by Syscomm to the Customer in accordance with these terms and conditions.

1.4 "Third Party Software" means all software owned by or licensed to the Customer from a third party owner (whether or not supplied by Syscomm) and which comprises part of the Products.

2. ORDER ACCEPTANCE

2.1 All orders placed with Syscomm by the Customer for Products & Services shall constitute an offer to Syscomm, under these terms and conditions, subject to availability of the Products and to acceptance of the order by Syscomm's authorised representative.

2.2 All orders are accepted and Products & Services supplied subject to these express terms and conditions only. No amendment to these terms and conditions will be valid unless confirmed in writing on or after the date hereof by Syscomm's authorised representative.

2.3 It is agreed that these terms and conditions (or any amendments to them) prevail over the Customer's terms and conditions of purchase unless these latter terms and conditions are agreed by Syscomm in writing.

2.4 The Customer cannot rely on statements made before you make the contract with Syscomm unless they are made by our authorised representative and are contained in any estimate (or covering letter) and not withdrawn before the contract is made.

2.5 Nothing in these terms and conditions affects or limits our liability for fraudulent misrepresentation.

3. INDEPENDENT CONTRACTOR

The relationship between Syscomm and the Customer is that of Independent Contractor. Neither party is the agent of each other, and neither party has any authority to make any contractor make any obligation expressly or impliedly in the name of the other party, without that party's prior written consent for express purposes connected with the performance of these terms and conditions.

4. DESPATCH

4.1 Any date or time quoted for the supply of products & services is to be treated as an estimate only. Syscomm will make all reasonable efforts to comply with requested time frames, but in no event shall Syscomm shall not be liable for any damages or penalty for delay or postponement.

4.2 Risk shall pass to the Customer at the time the Products are received by the Customer.

4.3 The Customer must inspect the Products immediately after delivery is complete. If any Products are damaged (or not delivered), the Customer must notify Syscomm within 2 working days of the delivery or expected delivery.

4.4 Products & Services may be delivered in installments and invoiced separately at Syscomm's discretion.

5. CANCELLATIONS AND RESCHEDULING

Unless otherwise agreed in writing, any request by the Customer for cancellation of any order or for the rescheduling of any deliveries can only be considered if made at least 48 hours before dispatch, and shall be subject to acceptance at the sole discretion of Syscomm, and be subject to a reasonable administration charge. The Customer hereby agrees to indemnify Syscomm against all losses, costs (including the cost of labour and materials used and overheads incurred), damages, charges and expenses arising out of the order and its cancellation or rescheduling.

6. PRICING

6.1 Catalogues, price lists and other advertising literature or material as used by Syscomm are intended only as an indication as to the price and range of the Products offered and no prices, descriptions or other particulars contained therein shall be binding on Syscomm.

6.2 All prices are given by Syscomm at the time of the order on an ex-works basis and the Customer is liable to pay for the transport, packing and insurance costs.

6.3 All quoted or listed prices are based on the cost to Syscomm of supplying the Products to the Customer. If before delivery of the Products there is an increase in any way of such costs in respect of Products that have not yet been delivered, the price payable may be subject to amendment.

6.4 All prices are exclusive of Value Added Tax and any similar taxes. All such taxes are payable by the Customer and will be levied in accordance with UK legislation in force at the tax-point date.

7. PAYMENT TERMS

7.1 Invoices will be raised and dated by Syscomm on or after the date of supply of the Products & Services.

Unless otherwise specifically requested and agreed, invoices will be payable by the Customer 30 days from the date of invoice. Payments that are not received in full by the due-date, will be considered overdue and remain payable by the Customer together with the interest for late payment that may be levied solely at Syscomm's discretion. The interest payment will be at a rate equivalent to that set for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998, calculated on a daily basis from the date of invoice until payment; such interest to be compounded on the first day of each calendar month and payable both before and after any judgment (unless the court orders otherwise).

7.2 The Customer must notify Syscomm in writing within 7 days of the date of invoice of any errors within the invoice. Failure will result in Syscomm assuming you have accepted the invoice in full.

7.3 The Customer's credit-limit may be withdrawn or amended without notice by Syscomm.

7.4 The Customer does not have the right to set off any money claimable from Syscomm against any sums owing to Syscomm by the Customer.

7.5 Syscomm reserves the right to withhold any Customer property in their possession if the Customer is in debt to Syscomm.

7.6 Until the Customer pays all debts to Syscomm:

7.6.1 all Products will remain the property of Syscomm.

7.6.2 the Customer must insure all such against loss or damage

7.6.3 Such products shall not be sold if you become insolvent and defined in clause 13.3 of these terms and conditions.

7.7 The Customer must inform Syscomm in writing if the Customer becomes insolvent.

7.8 If the Customer's right to use and sell the Products ends, you must allow Syscomm to reclaim the Products.

7.9 The Customer agrees to give Syscomm permission to enter any premises where the Products are stored:

7.9.1 at any time to inspect them; and

7.9.2 to remove them, using reasonable force if necessary, after the Customer's right to use or sell them has finished.

7.10 Despite Syscomm's retention of title to the Products, Syscomm reserves the right to take legal proceedings to recover the cost of Products supplied should the Customer not make full payment by the invoice due date.

7.11 The Customer is not entitled to pledge or in anyway charge by way of security for any indebtedness any of the Products which remain the property of Syscomm. Should the Customer do so, all monies owing by the Customer to Syscomm shall without prejudice to any other rights or remedies of Syscomm immediately become due and payable.

7.12 Syscomm reserves the right to stop supplying Products to the Customer at any time.

8. SPECIFICATION OF PRODUCTS

8.1 Syscomm will not be liable in respect of any loss or damage caused by or resulting from any variation for whatsoever reason in the manufacturer's specifications or technical data of the Products.

8.2 Syscomm will not be responsible for any loss or damage resulting from curtailment or cessation of supply of Products following any variation as described in clause 8.1 of these terms and conditions.

8.3 Syscomm will use its reasonable endeavors to advise the Customer of any variation known to Syscomm.

8.4 Unless otherwise agreed, the Products are supplied in accordance with the manufacturer's standard specifications that may be improved, substituted or modified at any time.

9. PROPRIETARY RIGHTS IN SOFTWARE PRODUCTS

9.1 The Customer hereby acknowledges that any proprietary rights in any Third Party Software supplied hereunder including, but not limited to any title or ownership rights, patent rights, copyrights and trade secret rights, shall at all times and for all purposes vest and remain vested in the Third Party Software owner.

9.2 The Customer hereby acknowledges that it is its sole responsibility to comply with any terms and conditions of license attaching to Third Party Software supplied and delivered By Syscomm (including if so required the execution and return of a Third Party Software license). The Customer is hereby notified that failure to comply with such terms and conditions could result in the

Customer being refused a software license or having the same revoked by the proprietary owner. The Customer further agrees to indemnify Syscomm in respect of any costs, charges or expenses incurred by Syscomm as the result of any breach by the Customer of such terms and conditions.

9.3 NO TITLE OR OWNERSHIP OF SOFTWARE PRODUCTS OR ANY THIRD PARTY SOFTWARE LICENCED TO THE CUSTOMER UNDER THIS AGREEMENT IS TRANSFERRED TO THE CUSTOMER UNDER ANY CIRCUMSTANCES.

10. PRODUCT RETURNS

10.1 Product Returns must be made subject to the following:

(a) prior authority having been obtained from Syscomm, which will be given at Syscomm's sole discretion;

(b) the request for the return must be made within 7 days of the date of delivery or installation if undertaken by Syscomm and the Products in issue must be returned within 7 days of the authority to return;

(c) the Products must be properly packed;

(d) the Products must be in a saleable condition;

10.2 Syscomm reserves the right to reject any Products which do not comply with the conditions set out in clause 10.1 of these terms and conditions.

11. WARRANTY

11.1 Syscomm warrants that it has good title to or license to supply all Products to the Customer.

11.2 If any part of the hardware Products should prove defective in materials or workmanship under normal operation or service, such Products will be repaired or replaced only in accordance with any warranty cover or terms as provided by the manufacturer of the Products PROVIDED THAT no unauthorised modifications to the Product or to the system of which the Product forms part have taken place. Syscomm is not responsible for the cost of labour or other expenses incurred in repairing defective or nonconforming parts.

11.3 Syscomm reserves the right to test all Products returned as faulty and to return to the Customer (at the Customer's expense)

any products found not to be faulty. Syscomm also reserves the right to levy an additional reasonable charge to cover the cost of such testing.

11.4 All software Products supplied hereunder are supplied "as is". The sole obligation of Syscomm in connection with the supply of software Products is to use all reasonable endeavours to obtain and supply a corrected version from the manufacturer concerned in the event that such software Product should fail to conform to product description PROVIDED ALWAYS THAT the Customer notifies Syscomm of any such non-conformity within 90 days of the date of delivery of the applicable software Product.

11.5 Syscomm cannot accept any liability in relation to any losses, costs or expenses which arise through any difficulty caused over date changes.

11.6 If the Products are rejected by the Customer as not being in accordance with the Customer's order pursuant to clause 11.2 or 11.4 of these terms and conditions, Syscomm will only accept the return of such Products as provided in clause 10 of these terms and conditions. Syscomm will not consider any claim for compensation, indemnity or refund under liability unless it has been established or agreed with the manufacturer.

11.7 EXCEPT AS SPECIFICALLY SET OUT IN THIS CLAUSE 11, SYSCOMM DISCLAIMS AND EXCLUDES ALL

OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF DESCRIPTION, DESIGN, SATISFACTORY QUALITY AND FITNESS FOR A

PARTICULAR PURPOSE, OR ARISING FROM ANY PREVIOUS COURSE OF DEALING, USAGE OR TRADE PRACTICE.

12. INDEMNITIES AND LIMITS OF LIABILITY

12.1 Syscomm will indemnify the Customer for direct damage to property caused solely by defects in any of the Products or which are caused solely by the negligence of Syscomm assigned employees acting within the course of their employment and the scope of their authority. Syscomm's total liability under this sub-clause shall be limited to £100,000 for any one even or series of connected events.

12.2 Except as stated in clause 12.1 of these terms and conditions, Syscomm disclaims and excludes all liability to the Customer in connection with these terms and conditions including the Customer's use of the Products & Services and in no event shall Syscomm be liable to the customer for special, indirect or consequential damage including but not limited to loss of profits arising from loss of data or in connection with the use of the Products and Services.

12.3 The Customer shall indemnify and defend Syscomm and its employees in respect of any claims by third parties, which arise, from any Syscomm performance or non-performance pursuant to the instructions of the Customer or its authorised representatives.