

## VOIspeed Conditions of Sale

### 1 THESE CONDITIONS

1.1 In these terms and conditions the words "VOIspeed" or "the Company" mean VOIspeed Limited, the words "the Customer" shall mean the person, firm or company purchasing or agreeing to purchase goods or services from VOIspeed, the words "these Conditions" shall mean the terms and conditions of sale set out herein, the word "goods" shall mean the subject matter of the contract including (but not limited to) all equipment, spare parts or other goods, the word "Services" shall mean repairs or services provided to the Customer, the word "Warranty" shall mean the warranty supplied by the manufacturer to the Customer by VOIspeed and the word "Order" shall mean a purchase order in respect of goods or services issued by the Customer to VOIspeed on the Customer's official purchase order form, together with all documents referred to in it.

1.2 VOIspeed's quotations are not binding on the Customer and a contract ("the Contract") will only come into being upon acceptance by VOIspeed of the Order and the following Conditions shall be deemed to be incorporated in the contract.

1.3 No cancellation of an Order by the Customer shall be valid unless made in writing and accepted in writing by VOIspeed. If the order is cancelled for whatever reason, the Customer will pay VOIspeed for any goods (finished or work-in-process) or services VOIspeed may then have provided or have committed to provide unless specifically agreed by VOIspeed. VOIspeed does not accept cancellation of contracts, nor does the return of goods that have been incorrectly ordered by the Customer. In instances where VOIspeed agrees that such orders may be returned, the Customer must ensure that the goods are fit for resale and VOIspeed reserves the right to charge a restocking fee of up to 25% of the order price, or £25.00 whichever is the greater, to cover the cost of administrating the Customer's error. The Customer also needs to pay for any work or services VOIspeed has conducted at VOIspeed's standard hourly rate.

1.4 The contract will be subject to these Conditions. All terms and conditions appearing or referred to in the Order or otherwise stipulated by the Customer shall have no effect. No variation of these Conditions is permitted unless expressly accepted in writing by a VOIspeed Director. VOIspeed may change these terms of sales without notifying the Customer in advance in relation to future sales. All terms and conditions for business customers will be posted on VOIspeed's website. The Customer is advised to visit VOIspeed's website from time to time for updated terms and conditions.

### 2 THE GOODS AND SERVICES

2.1 Subject to the warranty contained in Clause 6.1, all descriptions, drawings, and particulars relating to the goods or services in any catalogues, leaflets, brochures or other documents are for illustrative purposes only and do not form part of the agreement between VOIspeed and the Customer. All representations as to performance of the goods are based on information supplied by the manufacturer of the goods and relate to their performance in normal conditions and when used correctly.

2.2 Unless otherwise expressly agreed, goods supplied will be in accordance with manufacturer's normal designs and specifications current at the date of manufacture or delivery. The supply by VOIspeed of goods or services differing from any contractual or pre-contractual specifications or descriptions shall not be in breach of the agreement between VOIspeed and the Customer insofar as the goods or services are of approximately equivalent performance to the goods or services referred to in such specifications or descriptions.

2.3 VOIspeed makes its best effort to ensure that the goods supplied correspond in every aspect to the specifications, samples or descriptions. Nevertheless, VOIspeed is not responsible for any minor variation in colour, specifications, or any other design features, and no such minor variation shall entitle the Customer to rescind the contract or shall be the subject of any claim against VOIspeed. Images are for illustration only and may differ from actual products.

### 3 DELIVERY AND RISK

3.1 The time for delivery of the goods and performance of the services is not of the essence. Dates agreed for delivery or performance are estimates only and a failure by VOIspeed to comply with them shall not be a breach of these Conditions.

3.2 Unless the contract otherwise stipulates, risk in the goods passes to the Customer when the goods are dispatched from VOIspeed's premises and VOIspeed accepts no responsibility for any damage or loss in transit. Claims for damage or loss in transit should be made on the carrier and any conditions imposed by the carrier in relation to claims for damage or loss in transit should be complied with. Our standard delivery service does not include insurance on the parcel. However, if you would like to insure your shipment, please state this in the notes of your order and VOIspeed will provide you with a quote for the additional cost incurred. Although we cannot guarantee that coverage is available on all shipments we will make every effort to arrange it with our courier.

3.3 Where the Customer has arranged for the collection of the goods, risk will pass on the date that VOIspeed has notified the Customer that the goods are ready for collection.

3.4 The Customer is required to inspect the contents, conditions and performance of the goods and services immediately upon delivery, collection or installation and to notify in writing VOIspeed of any defects, noncompliance with the Vendor's descriptions or complaints within 24 hours of receipt.

3.5 If the Customer fails to notify VOIspeed in accordance with the requirements, the goods and services will be deemed to be in all aspects in accordance with the contract and have been accepted by the Customer.

3.6 In the event that the Customer files the claims of non-compliance within 24 hours, the Customer shall allow VOIspeed a fair chance to inspect such claims. The Customer needs to return the damaged goods for inspection to VOIspeed at the Customer's costs. When receiving such claims, VOIspeed will conduct investigations and reply to the Customer within three working days.

3.7 In the event of a valid claim for losses, damages, shortages, or non-compliance with the contract VOIspeed undertakes at its option either to reprocess, re-configure, re-deliver or replace the items at its expense or in the case that such items are no longer available, cancel the part of the contract related to such items and provide a refund. VOIspeed shall not be under any further or other liability in connection with such loss, damage or non-compliance.

3.8 After the Vendor has reprocessed, reconfigured, re-delivered or replaced the items as per clause 3.6, the Customer shall inspect the goods and services and take the necessary actions as per clause 3.4 and clause 3.5.

### 4 PROPERTY IN THE GOODS

4.1 Notwithstanding that risk in the goods passes to the Customer in accordance with Clauses 3.2 and 3.3 of these Conditions title to the goods (whether separate and identifiable or incorporated in or mixed with other goods) shall remain with VOIspeed until payment in full has been received by VOIspeed:

4.1.1 for those goods;

4.1.2 for any other goods supplied to the Customer by VOIspeed;

4.1.3 of all monies due from the Customer to VOIspeed on any account, and the Customer acknowledges that until such payment is made in full it is in possession of the goods solely as a fiduciary of VOIspeed.

4.2 The customer is licensed by VOIspeed to use or to agree to sell the goods provided that the entire proceeds of any sale of such goods are held in trust for VOIspeed and are not mixed with other monies or paid into an overdrawn bank account and shall at all times be identifiable as VOIspeed's money.

4.3 Any resale by the Customer of goods in which property has not passed to the Customer shall (as between VOIspeed and the Customer only) be made by the customer as agent for VOIspeed.

4.4 Until title to the goods passes to the Customer under clause 4.1 the goods shall be kept separate and distinct from all other property of the Customer and of third parties and in good condition and shall be stored in such a way as to be clearly identifiable as belonging to VOIspeed and the Customer will not cause or permit or suffer any labels badges serial numbers or other means of identification of the goods to be removed or obscured.

4.5 At any time before title to the goods passes to the Customer (whether or not payment to VOIspeed is then overdue or the Customer is otherwise in breach of any obligation to VOIspeed), VOIspeed may (without prejudice to any of its rights):

4.5.1 for the purpose of recovering all or any part of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored (or authorise others to do so) and may repossess the same which the Customer hereby authorises;

4.5.2 require delivery up to it of all or any part of the goods.

4.6 Each clause and sub-clause of this clause 4 is separate, severable and distinct and, accordingly, in the event of any of them being for any reason whatsoever unenforceable according to its terms, the others shall remain in full force and effect.

## **5 PRICE AND PAYMENT**

5.1 Unless otherwise expressly agreed, any price payable for goods and services stated by VOIspeed in any catalogue, website, brochures, promotion material, price list, email or any documentation is for reference only and does not constitute an offer. The Customer is invited to confirm prices with VOIspeed before ordering.

5.2 In other cases the price stated in the contract is based on the cost to VOIspeed of raw materials, fuel and power, transport and labour and all other costs at the date of acceptance of the order or quotation (whichever is earlier). If at the date of despatch of the goods from VOIspeed's premises, or if at the date of carrying out the work, in either case there has been any increase in all or any of such costs (also due to changes in exchange rates), the price payable for the goods or services may at the request of VOIspeed be increased accordingly. VOIspeed reserves the right to change prices at any time to reflect market conditions. In the event of a price change after the Customer places an order, VOIspeed will notify the Customer as soon as possible and invite the Customer to reconfirm the order at the updated prices before entering the contract and dispatching the goods. If the Customer does not agree with the updated prices, no contract will be entered and any payment by the Customer shall be refunded or credited.

5.3 The price for the goods or services shall, unless otherwise stated, be exclusive of value added tax and the cost of packaging and carriage which will be charged at VOIspeed's normal rates.

5.4 Where the price for the goods or services is varied in accordance with clause 5.2 the price as varied shall be binding on both parties and shall not give either party any option of cancellation.

5.5 Prices quoted are net and are in sterling unless otherwise agreed. All payments are to be made to VOIspeed's address as stated on the invoice unless agreed otherwise.

5.6 All payments shall be made without deduction or set-off. The Customer is liable for and shall pay any charges involved in the transfer of funds (i.e. BACS, T/T etc.). Payment made by credit card, debit card, bank transfer or business cheque and certain payment methods may require an additional charge which shall be notified to the Customer before acceptance of the order.

5.7 Where any agreement to supply goods or services provides for goods or services to be delivered or performed by instalments which are to be separately paid for, such agreement shall not be severable and failure by the Customer to pay for or accept delivery or performance of any instalment by the due date shall entitle VOIspeed at its option to treat the whole agreement with the Customer as repudiated.

5.8 Unless otherwise expressly agreed, payment shall be made in accordance with clause 5.5 upon receipt of invoice which shall be sent by post to the Customer upon despatch of the goods or performance of the services. If the Customer does not take delivery when requested, payment shall be made 7 days after VOIspeed has requested the Customer to take delivery. Where the Customer fails to take delivery of the goods, VOIspeed may arrange storage of the goods at the Customer's risk and the Customer shall be liable to VOIspeed for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any other right which VOIspeed may have in respect of the Customer's failure to take delivery of the goods or pay for them or the services in accordance with the contract.

5.9 Time for payment is of the essence and if payment is not received within 30 days from the date of the invoice VOIspeed may require the Customer to pay interest at 8 per cent per annum. VOIspeed also reserves the right to suspend further deliveries and work both on the same order and on any other order from the Customer without prejudice to any other right VOIspeed may have.

5.10 If payment should not be received within 30 days from the date of the invoice, VOIspeed will be entitled to charge (in addition to interest and any legal costs ordered by the court and without prejudice to any other rights or remedies available to VOIspeed) the sum of £85 plus VAT by way of liquidated damages and as a contribution to the administrative costs incurred by VOIspeed in taking steps to secure payment.

## **6 WARRANTY AND LIABILITY OF VOISPEED**

6.1 VOIspeed warrants that it will (where the goods are the subject of a guarantee from the manufacturer which is in force at the time of the notification referred to below) at its option credit the account of the Customer (if any) or remedy free of charge by repair or replacement any goods which are accepted by VOIspeed as being defective or not in accordance with the Contract or any express description or representation given or made by or on behalf of VOIspeed in respect of the goods, (save that this Warranty shall not apply where the defect or fault is attributable to misuse of the goods by the Customer or defective materials supplied by third parties where the Customer's only remedy will be against that third party), provided that the Customer notifies VOIspeed promptly of such a defect and where the Customer arranges for the prompt return to VOIspeed of the defective goods at the Customer's risk and expense.

6.2 The Customer's remedies in respect of any claim under the foregoing express Warranties or any condition or Warranty implied by law or any other claim in respect of the goods or services or any workmanship in relation to them (whether or not involving negligence on the part of VOIspeed) shall in all cases be limited to repair, replacement or refund of the purchase price as aforesaid and any condition or Warranty implied by law shall cease to apply after the expiry of the relevant Warranty period.

6.3 VOIspeed shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities, whether direct, indirect or consequential (including but not limited to economic loss or loss of profits) and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law. A claim in respect of any defect or failure to comply with the specification or in respect of any delivery or instalment of any Order or any part of them shall not entitle the Customer to cancel or refuse delivery or performance of or payment for any other Order, delivery or instalment or any part of the same Order, delivery or instalment.

6.4 Any claim against VOIspeed whether in contract or tort shall be limited to an amount by way of liquidated damages equal to the invoice value of the goods in respect of which the claim is made.

## **7 TERMINATION**

If any payment due to VOIspeed is overdue by 60 days from the date of invoice or if the customer enters into a deed of arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the Court shall make an order that the Customer shall be wound up (otherwise than for the purposes of amalgamation or reconstruction) or if a receiver (including an administrative receiver) shall be appointed of any of the assets or undertaking of the Customer or if the Customer suffers the appointment or the presentation of a petition for the appointment of an administrator or if circumstances shall arise which entitle the court or a creditor to appoint a receiver (including an administrative Terms and Conditions of Sale (TCS100519GV)

receiver) or a manager or which entitle the Court to make a winding-up order or if the Customer takes or suffers any similar action in consequence of debt or if the financial responsibility of the Customer shall, in the opinion of VOIspeed become impaired or if the Customer shall commit any breach of any part of the contract VOIspeed may without prejudice to its rights and remedies under these conditions stop all goods in transit and suspend further deliveries or performance of the services and by notice to the Customer may terminate the contract immediately.

## **8 FORCE MAJEURE**

8.1 VOIspeed shall not be liable to the Customer for any delay in delivery or performance or failure to deliver or perform its obligations if the duration of the delay is not substantial, or if the delay or failure is due to an Act of God, fire, inclement or exceptional weather conditions, industrial action (whether at VOIspeed's premises or elsewhere), hostilities, shortage of labour, materials, power or other supplies, late delivery or performance or non-delivery or non-performance by suppliers or subcontractors, governmental order or intervention (whether or not having the force of law) or any other clause whatever beyond VOIspeed's control or of an unexpected or exceptional nature, and in such event VOIspeed may elect by written notice to cancel any agreement with the Customer or elect that the time for performance shall be extended until such time as VOIspeed can reasonably effect performance.

8.2 No delay shall entitle the Customer to reject any delivery or performance or any further instalment or part of the Order or any other Order from the Customer or to repudiate the Contract or the Order.

## **9 WAIVER**

If the Customer shall be in breach of any of these Conditions then the failure by VOIspeed to require the Customer to rectify the same shall not create any assumption that such a breach has been waived by VOIspeed.

## **10 PATENTS**

The Customer shall indemnify VOIspeed against all actions, costs (including the cost of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement or alleged infringement of any patent, registered design, unregistered design, design right, copyright, trademark or other industrial or intellectual property rights resulting from compliance by VOIspeed with the Customer's instructions, whether express or implied.

## **11 INDEMNITY**

The Customer agrees upon demand to indemnify VOIspeed against all losses, damages, injury, costs and expenses of whatever nature suffered by VOIspeed to the extent that the same are caused by or related to:

11.1 designs, drawings or specifications given to VOIspeed by the Customer in respect of the goods;

11.2 defective materials or products supplied by the Customer to VOIspeed and incorporated by VOIspeed in the goods; or

11.3 the improper incorporation, assembly, use, processing, storage or handling of goods by the Customer.

## **12 ASSIGNMENT AND SUBCONTRACTING**

12.1 None of the rights or obligations of the Customer under the contract may be assigned or transferred in whole or in part without the prior written consent of VOIspeed.

12.2 VOIspeed shall be entitled to subcontract any work relating to the contract without obtaining the consent of, or giving notice to, the Customer.

## **13 RETURN OF GOODS**

13.1 Services and goods cannot be returned unless they are faulty or agreed by VOIspeed in writing. Where the goods are not faulty and return agreed by a director of VOIspeed, a re-stocking fee will apply as outlined in clause 1.3.

13.2 A Return Merchandise Authorisation (RMA) number must be obtained by the Customer before any goods can be returned. VOIspeed does not accept any return of goods without a valid RMA number.

13.3 VOIspeed recommends that the Customer fully insures the items being returned. The Customer will also be responsible for the delivery costs of returning the goods. VOIspeed suggests the use of a carrier that can provide the Customer with proof of delivery. VOIspeed will not be liable for items lost or damaged in transit. The delivery and insurance costs of returning the goods to VOIspeed is the responsibility of the Customer.

13.4 The goods must be returned with the manufacturer's original packaging not damaged or defaced. The goods must be returned in their entirety, including all disks, manuals and cables.

13.5 The Customer has 10 days from receipt of an RMA number to return the goods to VOIspeed. Any RMA number expires after 10 days of issuance. VOIspeed cannot accept any returned goods without a valid RMA number. In this case, the Customer will need to contact VOIspeed for a new RMA number.

## **14 HEALTH AND SAFETY**

The Customer agrees to pay due regard to any information or any revised information whenever supplied by VOIspeed (and is deemed to have been given adequate information and to have read and understood it) relating to the use for which the goods are designed or have been tested or concerning conditions necessary to ensure that they will be safe and without risk to health at all times when they are being set, used, cleaned or maintained by any person at work or when they are being dismantled or disposed of, and the Customer undertakes to take such steps as may be specified by the above information to ensure that as far as reasonably practicable the goods will be safe and without risk to health at all times as mentioned above. For these purposes the Customer is deemed to have been given a reasonable opportunity to test and examine the goods before delivery.

## **15 TECHNICAL SUPPORT AND MAINTENANCE**

Technical support and maintenance either onsite, by phone or by email, is subject to the terms and conditions outlined in VOIspeed's Service Level Agreement for Technical Support. In order to have access to VOIspeed technical support the Customer must purchase sufficient VOIspeed technical support credit or establish a support and maintenance agreement or pay engineering time at VOIspeed's hourly rate.

## **16 NOTICES**

All demands notices and other communications shall be in writing and addressed to VOIspeed at its address shown on invoices delivered by it and to the Customer at the address given by it for delivery of invoices (or as subsequently notified by one to the other in writing) and shall be deemed served if delivered, at the time of delivery; if posted, 48 hours after being posted by first class post and if sent by facsimile transmission, at the time of transmission.

## **17 INVALIDITY**

The invalidity, illegality or unenforceability of any provision of these conditions should not affect the other conditions.

## **18 LAW AND JURISDICTION**

The Conditions shall be governed by and construed in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts. No clause within these terms shall affect your statutory rights.

## **19 QUALITY OF SERVICE**

VOIspeed is committed to provide the highest quality of service to its customers as the Company's ethos is to exceed customers' expectations at all times. However there are variables that fall beyond the remit of VOIspeed technology. In particular with regard to VoIP calls, for example, broadband plays a crucial role in making sure the system delivers a high level of voice quality. This is also true for SIP trunks and we make our best to recommend a selection of reputable service providers. Therefore, the Company cannot be held responsible for any problems caused by equipment and/or services that have not been directly supplied by VOIspeed including and not limited to network routers, network firewalls, third party handsets/headsets/gateways, broadband connection and SIP trunks.