

General Terms and Conditions

1. General Definitions

- (1) Seller means TOSHIBA TEC Europe Retail Information Systems S.A., UK Operations.
- (2) Buyer means the person, firm or company who places an order with the Seller for the supply of goods and/or services.
- (3) Goods means the products manufactured and/or supplied by the Seller which are the subject of an order placed by the Buyer with the Seller.
- (4) Services means the services (including without limitation installation services) supplied by the Seller which are the subject of an order placed by the Buyer with the Seller.
- (5) Unless stipulated otherwise in these terms, the definitions as set out in the INCOTERMS applicable at the date of any contract shall apply.

2. Exclusions of other Terms

- (1) Only these conditions shall apply to all estimates and quotations made by and all contracts for the sale of Goods and/or Services by the Seller. No alteration or qualification of these terms, whether issued by the Buyer or contained in the Buyer's order or otherwise, shall be effective unless expressly accepted in writing by an authorised officer of the Seller.

3. Variation or Representation

- (1) No variation, cancellation or waiver of these conditions or any representations relating to the Goods and/or Services or to the performance of the contract shall be valid unless expressly accepted in writing by an authorised officer of the Seller.

4. Acceptance

- (1) The Seller's offers, estimates and quotations are valid for a period of 30 days from issue and must be made by authorized officers of the Seller. The Seller reserves the right to withdraw any offer, estimate or quotation issued by it at any time prior to acceptance in writing from the Buyer. Subject to article 4 (2) below a binding contract between the Seller and the Buyer will be created upon the Buyer accepting in writing any valid offer, estimate or quotation issued by the Seller which has not been withdrawn.
- (2) Any order accepted by the Seller shall be accepted subject to the Buyer's credit being approved by the Seller and to cancellation without liability at the instance of the Seller should the Seller decide that, in its opinion, the Buyer's credit position is insufficient to meet the order in question.
- (3) In the event that any contract provides for Goods to be paid for by a leasing company the Buyer will comply with such requirements as the Seller and the leasing company shall impose and if such requirements have not been completed in full within 60 days of the order being placed, the Buyer shall be required to pay for the Goods in accordance with article 12 hereof.

5. Delivery

- (1) The delivery time shall not be the essence of the contract. Whilst the Seller shall use reasonable commercial endeavours to deliver the Goods and/or provide the Services by the indicative date specified on the Seller's offer, estimate or quotation, it shall not be liable for delay in delivery from any cause whatsoever and howsoever arising. Should expedited deliveries be required, the additional costs if applicable must be borne by the Buyer unless agreement to the contrary has been reached with the Seller.
- (2) In any case when the Goods and/or Services have not been delivered at the date indicated in the offer, estimate or quotation, the Buyer shall be entitled to notify the Seller in writing that it requires the Goods and/or Services to be delivered not later than 30 days after the date of the notification. After such term has lapsed without effect, the Buyer has the right to withdraw from the contract.

6. No acceptance by the Buyer

- (1) If by reason of the Buyer's default, Goods and/or Services have not been collected or delivered by the applicable delivery date, the Seller has the right either (a) to compel the Buyer to perform its obligations and charge the Buyer penalties of 0.5% per month on pro rata basis of the total value of the Goods and/or Services concerned or (b) after a period of three months has lapsed from the applicable delivery date, to withdraw from the contract and to charge the Buyer an amount of 30% of the total value of the concerned Goods and/or Services. In any case the Goods shall be stored at the expense and risk of the Buyer until they are collected or delivered.

7. Defective Goods

- (1) Any complaints concerning defective Goods must be made in writing within 7 days of delivery of the Goods by the Buyer.
- (2) In the event of such a complaint being justified in the Seller's opinion the Goods will be replaced or repaired at no extra cost to the Buyer.

8. Title and Risk

- (1) Unless otherwise agreed by the parties, delivery of the Goods shall take place EX WORKS the Seller's place of business.
- (2) Risk in the Goods shall pass to the Buyer upon shipment and the Buyer shall keep the Goods properly insured in the amount of the sale price.
- (3) Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these terms, title to the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other Goods and/or Services agreed to be sold by the Seller to the Buyer for which payment is then due.

- (4) Until such time as title in the Goods passes to the Buyer, the Buyer shall hold the Goods as the seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer may resell or use the Goods in the ordinary course of its business.
- (5) If the Goods which are subject to Seller's retention of title are processed, combined or mixed with other Goods, the Seller shall have a co-owner's interest in such newly created goods. If the Goods are processed this interest is calculated pro rata from the value (meaning invoiced gross value including incidental charges and taxes) of the Goods which are subject to Seller's retention of title in relation to the value of the newly created goods; if the Goods are combined or mixed with other goods, this interest is calculated pro rata from the value of the goods which are subject to the Seller's retention of title in relation to the value of the other goods.
- (6) Until such time as Title in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller may at any time require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, enter on any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- (7) Without limiting any other right or remedy of the Seller the Buyer will upon request from the Seller assign to the Seller all receivables which accrue from the resale of the Goods to any third party. The Seller will not make use of this right, if the Buyer duly fulfils its obligations under the contract. Upon request, the Buyer shall provide the Seller all the necessary information and related documentation regarding the debtors and the location of the Goods, and shall inform the debtors about the assignment.
- (8) The Buyer shall not be able to pledge or in any way charge by way of security for any indebtedness any Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

9. Installation [if applicable]

- (1) This article shall apply in the case the contract includes installation services.
- (2) The installation will be done against separate calculation and in accordance with the Seller's current price list.
- (3) The Buyer warrants that the installation work can begin not later than 2 weeks after delivery date or on the date or within the time limit agreed with the Seller. A request to postpone installation shall only be considered if it is made by the Buyer in written at least 8 working days before the scheduled date.
- (4) The installation shall be performed at the address indicated by the Buyer in its order. After an acceptance test run has successfully taken place, the Buyer shall sign a final acceptance report provided by the Seller confirming the installation date and the good functioning of the Goods in accordance with their specifications.
- (5) Installation shall be deemed to have been accepted 2 weeks after the Seller notified the Buyer that an acceptance test can take place successfully, unless the Buyer gives a written notice of major defects within this period.
- (6) In case the installation cannot be carried out by the Seller on grounds for which the Seller is not responsible, the Buyer shall bear the costs for already rendered Services and all other expenses incurred, including without limitation waiting time additional travelling costs and storage costs.
- (7) The installation does not affect the time of passing of the risk.

10. Software and Intellectual Property [if applicable]

- (1) If Goods consist of software, or if they are delivered to the Buyer combined with software, then the Buyer receives only the right to use such software, according to the terms of the software licensing conditions for such software [and the Buyer will (if required) sign any necessary software licence], unless a transfer of ownership has been specifically agreed in the specific conditions of the contract. If a specific software licence agreement has not been agreed, then the rights to use the software will in any event be limited to the use of the software on the delivered Goods.

The warranty in article 17 will be limited in respect of software to:-

- (i) corrective maintenance during the period specified in article 17 if the software has been developed by the Seller;
- (ii) to the Seller being required to issue a request for intervention and assistance by the party who has developed the software if the software has been developed by a third party.

(2) Save as provided to the contrary in writing in any contract all intellectual property rights in the Goods (including without limitation all design rights copyright patents or trademarks) shall remain the sole property of the Seller.

(3) If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all losses, damages, costs and expenses awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

11. Price

(1) All sums payable to the Seller are exclusive of VAT and any other taxes for which the Buyer shall be liable.

(2) Unless otherwise agreed in writing by the parties, all prices shall be understood EX WORKS Seller's place of business, packaging included.

(3) All forms of discounts shall only be binding on the Seller if agreed in writing by the authorised representatives of the Seller.

12. Payment

(1) Unless otherwise agreed in writing by the Seller, payment for the Goods and/or Services shall be made in full within 30 days of the date of invoice issued upon delivery of the Goods and/or Services, respectively after the installation report has been signed by the Buyer. Payment shall be deemed to have been made when the Seller is in receipt of cleared funds.

(2) Time of payment shall be the essence of all contracts. In case of default of payment on the due date, the Seller without prejudice to its rights hereunder shall have the right to charge the Buyer interest on the overdue amount at the rate of 8% above the statutory interest rate from the date the payment was due until the date when payment is made to the Seller (both before and after judgment). Additionally Seller is entitled to charge the Buyer indemnities of an amount of 20% of the total value of the Goods concerned.

(3) If instalment payments have been agreed between the parties and in case of delay or non-payment of one or more instalments, the Seller has the right (without limiting its other rights) to demand immediate full payment of the total due amount.

(4) If any payment remains overdue for more than 15 days after a notification has been sent to the Buyer by registered letter, the Seller has the right (without limiting its other rights) to suspend all the deliveries and to withdraw from the contract and obtain the payment of the due amount by all legal means.

13. Specification

(1) The Seller may modify without notice existing designs and specifications of the Goods from time to time as it may in its sole discretion consider expedient, notwithstanding that any item of Goods has been shown to the Buyer. A contract of sale by the Seller does not constitute a sale by sample.

14. Cancellation

(1) No cancellation or variation of an order by the Buyer shall be effective unless made in writing and until accepted in writing by an authorised officer of the Seller. The Seller reserves the right to refuse to accept such cancellation or variation or to accept cancellation or variation only subject to such conditions as it considers are warranted according to the circumstances. In case of cancellation of an order, the Buyer shall be liable for indemnities of an amount of 30% of the total value of the concerned order(s).

15. Force majeure

(1) The Seller shall not be responsible if the performance of any of its obligations hereunder is prevented hindered delayed or in any way interfered with whether directly or indirectly by reason of war, civil commotion, strike, lockout or any other industrial dispute, flood, fire, bad weather, accident or stoppage to works, machinery breakdowns, shortage of or difficulty in obtaining labour, materials, equipment, fuel, power, transport or by reason of any cause whatsoever beyond the Seller's reasonable control or that of its subcontractors or suppliers and in the event of such prevention hindrance delay or interference, the Seller may (without limiting its other rights) defer or determine this contract or any part of it without any liability to the Buyer without prejudice to its other rights. Any of the causes enumerated herein shall be deemed to prevent hinder delay or otherwise interfere with the Seller or its sub-contractors or suppliers if it affects the performance of the

aggregate of their obligations under any contract whether with the Buyer, the Seller or third parties.

16. Termination

(1) The Seller shall be entitled without prejudice to any other rights it may have forthwith to treat the whole contract with the Buyer as repudiated and terminated and to claim damages for any loss caused to the Seller by such termination in the event that the Buyer fails to make any payment when due or is in any other way in breach of any term of the contract, or if the Buyer shall become bankrupt or compound or make any arrangement with its creditors or being a limited company enters into liquidation whether compulsory or voluntary or has a receiver appointed over the business of the Buyer or if the Seller believes the Buyer has ceased or is likely to cease to trade.

17. Warranty

(1) The Goods supplied by the Seller are guaranteed for a period of twelve months from the date of delivery or collection. The liability of the Seller shall be limited to the repair or replacement of the defective materials or parts. All other costs related to transportation and carriage will be borne by the Buyer.

(2) The Seller's liability does not cover defects caused by any reasons not attributable to the Seller (including without limitation) excessive or faulty use of the Goods, improper repair work or maintenance carried out by the Buyer or third parties, careless or incorrect storage or handling of the goods, replacement of parts or use of consumables materials that do not conform to the original specifications or Seller's recommendations.

(3) Subject as expressly provided in these terms and conditions, all warranties, conditions or other terms implied by statute or otherwise are excluded to the fullest extent permitted by law.

18. Limitation of Liability

(1) The Seller's liability for damages shall be limited to a maximum of 50% of the value of the concerned Goods and/or Services.

(2) The Seller shall not be liable for any loss of profits, loss of business, revenue or anticipated savings, or for any indirect, incidental, immaterial or consequential damage arising from the supply of the Goods and/or Services concerned.

(3) The above limitations of liability shall not apply to damages caused by wilful intent, gross negligence or infringement of an essential contract obligation and for bodily injuries including death for which the Seller is legally liable.

19. Export Control

(1) The export of the Goods as long as the Goods are subject to export restrictions shall be permissible only with the authorization of the competent authorities.

20. Disposal

(1) The Seller acknowledges that the Goods, their sale in EU countries may be governed by the Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) and the Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) and their respective transposition in national laws.

(2) The Seller therefore shall ensure that all Goods (including electrical equipment spare parts components or assemblies) do not contain more than the permissible quantities of the hazardous substances mentioned in the directive 2002/95/EC from January 27, 2003 (RoHS) and the respective national laws.

(3) Subject to the Buyer complying with the Seller's policy in relation to the return of Goods for disposal pursuant to the WEEE regulations as amended from time to time the Seller will be responsible for compliance with the WEEE regulations in so far as they apply to the Goods.

21. General

(1) If any provision of the contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the contract and the remainder of the provision in question shall not be affected.

(2) Each contract shall bind and benefit the successors and personal representatives of each party.

(3) The Buyer may not assign the benefit of its rights under this contract.

(4) Nothing in this contract shall apply so as to give to a person who is not a party to any contract a right under it.

22. Jurisdiction and Governing Law

(1) Any contract of which these conditions form part shall be governed by the laws of England and the Buyer hereby submits to the jurisdiction of the English courts.