

Definitions

The following definitions shall apply;

"Company" means Pacific Computers Limited

"Contract" means the contract between the company and the customer to which on any particular occasion these terms and conditions relate.

"Customer" means the customer of the company under the contract.

"Goods" means the goods to which the contract relates.

"Software" means such (if any) of the goods as are within the meaning of that term as currently used in the computer industry.

"Special software" means such items (if any) of software as are not standard items supplied any the company and are specially produced or obtained by if in accordance with the customer's requirements.

"Equipment" means such of the goods which not software

"Special condition" means only a special condition or term which has been agreed by the company and which is set out in the part of the contract signed on behalf of the company.

"Standard charges" means the charges normally made by the company from time as certified in writing by the company.

1. General

1.1 These terms and conditions shall apply to all contracts made between the company and the customer, whether written or in oral, and whether expressly mentioned or not, save those contracts made after the company has notified the customer of the issue of a later edition shall be subject to such later edition.

1.2 These terms and conditions shall apply to the contract in so far as varied by or inconsistent with any special condition. No other term or condition shall have any effect whatsoever and if after the existence of these terms and conditions has become known to the customer the customer makes or gives to the company any conditional offer order or acceptance, the company shall have the right (but shall not be bound) to treat the same as unconditional, either in whole or in part, as it shall in its absolute discretion think fit.

1.3 The customer shall have no right to modify cancel or change the delivery date applicable to the contract without the prior written consent of the company.

1.4 Neither the contract nor any document forming part of the contract shall be binding on the company unless it has been accepted by the company under the signature of one of its directors or other authorised signatory save that the company may at its discretion accept any order placed by the customer by taking any step to fulfil such order in which case the taking of such step shall be deemed to be sufficient acceptance of the order by the company but with the right of the customer at any time after submitting its order to the company to request the company to give written acceptance of such order within fourteen days after such request and to treat the order as having been refused by the company if written confirmation of acceptance by the company is not given with such time.

1.5 No quotation or estimate given by the company shall be deemed to be an offer by the company unless expressed to be a "fixed quotation" and valid until a given date in which case it shall be open to acceptance by the customer but only by writing acceptance delivered to the company by such date.

1.6 The headings appearing in these terms and conditions are for guidance only and shall not in any way be deemed to affect or prejudice the interpretation or effect thereof save that those which appear under the heading "Special software" shall only apply to the special software (if any) covered by the contract and those which appear under the heading "installation" shall only apply if the contract provides for installation of the equipment by the company.

1.7 It is intended that these terms and conditions and any special conditions shall be reasonable as between the company and the customer having regard to the nature of the contract but if at any time any of them is either unenforceable or void at law it shall not adversely affect or prejudice the remainder of them or the contract and it shall be deemed to be excluded from these terms and conditions and (where possible) to be replaced by such other enforceable and valid term or condition as shall be as near as may be to the original in both form and effect.

2. Price

2.1 Unless the customer accepts a "fixed quotation" as mentioned above or unless the part of the contract signed on behalf of the company states that the price is fixed, the company reserves the right to increase any price in accordance with its standard charges at the date of the delivery to the customer.

2.2 A "fixed quotation" takes into account freight rates, currency exchange rates, import and other duties and taxes of whatsoever kind (other than VAT) deemed by the company applicable at the date of the contract. It may be adjusted in accordance with the amount of any changes beyond the control of the company in such rates, duties or taxes payable or collectable by the company including those payable by the company in obtaining a supply from overseas if so requested by the customer the company shall produce proof of such changes to the customer.

2.3 The customer shall pay VAT on any sum payable by the customer to which it applies at the rate prevailing at the appropriate time.

2.4 For the purpose of the remainder of these terms and conditions "the price" shall be deemed to be the basic price payable by the customer plus the amount of any such changes as aforesaid and VAT.

2.5 Unless otherwise expressly agreed the price does not include installation, operator training, travelling or hotel expenses and if any such are provided or carried out by the company, the customer shall pay the company its standard charges for them.

2.6 Save where installation is to be carried out by the company, the customer will pay the company any delivery charges incurred by the company if the company arranges for delivery to or on behalf of the customer.

3. Payment

3.1 Save in respect of special software and installations (as to which see clauses 10.1 to 11.8) the price (less any deposit paid) shall be paid within thirty days of the date marked on the invoice sent by the company to the customer or (if later) within thirty days of the date of which the goods are ready for collection by or delivery to the customer.

3.2 If any sum payable by the customer to the company is not paid within seven days of the due date the company shall have the right to charge interest on the balance from time to time in force calculated on a daily basis from the date on which such sum became due down to the actual date of payment.

3.3 Property in goods or in merchandise shall remain the absolute property of the company until the company has received payment in full.

4. Delivery and Acceptance

4.1 Delivery dates quoted are estimates only and the company shall not be responsible for any delays due to causes beyond its control.

4.2 The company reserves the right to make delivery by instalments. In that event these terms and conditions shall apply to each delivery as though it were subject to a separate contract.

4.3 Save as mentioned below the company shall take delivery at the company's premises within three days of the company serving written notice to the customer that the goods are ready for collection.

4.4 If the company agrees to make delivery to the customer such delivery shall be made to the address of the customer as shown in the contract, unless otherwise agreed. Even in such cases, the company reserves the right to request the customer to nominate and or appoint its own carrier for the purpose of making such delivery and in that case if delivery charges are included in the price the company will reimburse the customer with the amount of such charges.

4.5 Delivery shall be deemed to be made at the time when the customer effects collection from the company or in cases where collection is not made by the customer or on its behalf, when delivery is made to the address of the customer. Unless the customer shall deliver written notice to the company within three days of delivery to the effect that the goods are damaged or subject to shortage and unless the customer shall in all respects comply with the terms and conditions of the contract with the carrier (if any) the customer shall be deemed to accept that the goods have been delivered in accordance with the terms of the contract and shall not thereafter make any claim against the company in respect of any such damage or shortage.

4.6 If the company agrees to arrange for delivery of the goods the customer shall give verbal and written notice to the company forthwith if the goods are not received within three days of the expected delivery date or within such lesser period within which such notice is required to be given by the carrier (if any) and if the customer fails to do delivery shall be deemed to have been effected whether or not it has actually been effected.

5. Property Risk and Insurance

5.1 Until the price payable has been paid to the company in full and the customer has complied with all its obligations under the contract the goods shall remain the property of the company. The company shall have the right at any time prior to the price being paid in full to repossess the goods whether they are at the premises of the customer or elsewhere and without prejudice to the other rights and remedies of the company under this contract. The customer shall be liable for all transport and other costs and expenses of recovering the same.

5.2 If the customer should sell or otherwise dispose of the goods to a third party at any time before the company has received full payment for the same. The customer shall hold and keep the proceeds of sale on trust/or in a fiduciary capacity for the company. The said proceeds of sale shall be and remain the property of the company for the avoidance of doubt the customer shall place the said proceeds of sale in a separate bank account in the name of the company in order to be identifiable as the company's property.

5.3 Notwithstanding the foregoing the goods shall be entirely at the risk of the customer in all respects from the time of leaving the premises of the company whether collected by the customer or not.

5.4 The customer shall adequately insure the goods with reputable insurers against all insurable risks from not later than the time of customer and all other persons in any way connected with the goods against all known and insurable risks to person and property which might in any way arise out of the goods or their use and such insurance shall be for the sum of one hundred thousand pounds at least on terms whereby the insurers shall be precluded from any rights of subrogation or other rights whereby they would be capable of claiming against the company or any of its employees or other persons in any way connected with it.

6. Copyright

6.1 The customer shall not be entitled to any rights of copyright or design or any similar rights in respect of any of the goods and the company shall be free to prepare and produce similar goods and sell them to other parties without any restructure whatsoever.

6.2 The customer warrants that any specifications or plans which it produces to the company are not in breach of any rights or copyright or design or other similar rights in favour of any other party and shall indemnify the company against all liability whatsoever including expenses and legal costs reasonably incurred by the company in respect of any claim which may be made against the company for alleged breach of any such right.

7. Force Majeure

7.1 The company shall be under no liability for any failure to perform all or part of its obligations under the contract if such failure shall be due to Act of God, strikes, lock outs, labour disturbances, statute and order of any regulation of any government public or local or other Authority, delays or defaults of suppliers or sub contractors, (or without prejudice to the generality of the foregoing) or any other causes beyond the reasonable control of the company and the conditions shall apply notwithstanding that it may conflict with any special condition.

8. Default of Customer

8.1 The rights of the company as set out in these conditions shall apply in addition and without any prejudice to all rights that the company may have by common law statute or otherwise in respect of any default by customer.

8.2 If the customer fails to take delivery of any part of the goods at the time or place required under the contract the company shall have the right (I) to charge the customer with reasonable storage charges until such time as delivery is taken and/or (II) at any time thereafter to give written notice to the customer requiring the customer to take delivery of the goods in conformity with the contract within a period of twenty eight days from the date of sending such notice and in the event of the customer failing to take delivery within such period the company may, by sending further notice in writing to the customer treat the contract as having been repudiated by the customer and recover from the customer all losses damages and costs occasioned to the company by virtue of such repudiation.

8.3 If the customer fails to pay any monies due under contract within sixty days of due date the company shall have the rights (I) to treat the contract as having been repudiated by the customer on the same terms as set out in the foregoing paragraph and/or (II) to enter premises of the customer and recover any part of the goods which have been delivered to the customer.

8.4 The company shall also have the right to treat the contract as repudiated by the customer forthwith and without notice should the customer become bankrupt or insolvent or make any arrangement or compound with its creditors or should any receiver be appointed in respect of its undertaking or any of its assets or should a judgement be obtained against it and remain unpaid for a period in excess of twenty-eight days.

9. Maintenance and warranty

9.1 With effect from the date of delivery the company is willing to arrange for provision of maintenance and support services for the goods to include obligations for the repair of defects in the goods for which the company would be liable but for these terms and conditions. The customer is recommended to arrange accordingly and details of the terms and charges for such services have been provided to the customer or are available on request.

9.2 The company and the customer have freely and openly negotiated the contract in the knowledge that the liability of the company is to be limited in accordance with these terms and conditions and the price has been calculated accordingly. The customer acknowledges that a higher price would be payable but for such limitation.

9.3 Save as expressly stated in these terms and conditions the company shall have no liability whatsoever in respect of any representation warranty undertaking or condition not expressly incorporated herein and any such as might be implied in statute or otherwise is hereby expressly excluded.

9.4 The company shall not be liable for any loss of use of the goods or any consequential loss arising out of any defect in the goods or otherwise.

9.5 The customer shall indemnify the company against all liability whatsoever in respect of any claim which may be made against the company by any third party or damage to person alleged to arise out of or in respect of the goods or their use.

9.6 The obligation of the company in respect of the goods will be to replace them free of charge to the customer if they are found to be defective within a period of thirty days from date of delivery goods found to be defective after thirty days but within the warranty period will be repaired under warranty.

9.7 Under no circumstances shall the company have any liability under the foregoing obligation or otherwise for normal wear and tear or if (other than by the company) any part of the goods is modified or repaired improperly stored or used damaged by accident or neglect or maintained otherwise than or not maintained in accordance with the maintenance requirements specified by the company to the customer.

Pacific Computers Ltd, Terms and Conditions

9.8 The company represents that to the best of its knowledge and belief, the information contained in its published engineering specifications and manuals is correct but any warranty, implied or otherwise, that the goods are suitable for the purpose of the customer or may be integrated with other equipment is hereby expressly excluded.

9.9 These terms and conditions and the special conditions (if any) constitute the entire agreement between the company and the customer and may not be modified, waived, amended or supplemented except by writing agreement between them signed on behalf of the company as mentioned above.

10. Special Software

10.1 The company shall as soon as reasonably practicable submit a specification of special software to the customer such specification shall be written to the requirements of the customer as notified to the company. The customer shall check that such specification is in accordance with its requirements and subject to any necessary amendments shall as soon as possible, thereafter approve such specification in writing. The customer shall not be entitled to withhold such approval unreasonably not to vary the requirements which is notified to the company before the specification was prepared.

10.2 As soon as the specification for special software has been approved as aforesaid the customer shall pay the company a non-refundable deposit of 25% of such part of the price as relates to special software.

10.3 Following the date of delivery of special software to the customer it shall be tested using samples and data (which shall be supplied by the customer as being fully representative of the data to be encountered in operation use) and if such test is successful and the special software as mentioned above it shall be deemed to have been accepted by the customer.

10.4 On acceptance of special software as mentioned above the balance of the part of the price relative to special software shall immediately become due and payable

10.5 Save so far as varied by or inconsistent with the foregoing paragraph relating to special software all other of these terms and conditions shall also apply to special software.

11. Installation

11.1 Where the contract includes installation by the company it shall be responsible for delivery of the equipment to be installed and shall notify the customer when the equipment is ready for delivery and shall give at least seven days' notice of the date on which it intends to effect delivery.

11.2 The customer shall prepare and make available the installation site for each item of the equipment in accordance with the specifications previously furnished by the company including the removal of doors and/or windows of entrances or any structural or other similar work of any kind and including the provision and use of mechanical handling devices if the equipment cannot reasonably be handled by normal hand trolleys used by the company. The customer shall in all such respects and otherwise ensure that delivery is capable of being made on the intended delivery date as notified by the company although the company gives no warranty that the delivery will actually be made on such date.

11.3. The company reserves the right to install the equipment in stages

11.4 The customer shall permit the company to have access to the installation site at all reasonable times for the purpose of checking its suitability and ultimately for the purpose of delivery and installing the goods.

11.5 Following the delivery the company shall carry out the installation but gives no warranty as to the time that will take or any inconvenience that there may be caused to the customer.

11.6 After installation the company will conduct tests to ensure that the equipment is in full working order and when such tests are satisfactory the customer will be deemed to have accepted the equipment and its installation and will confirm acceptance in writing if so requested by the company.

11.7 Unless otherwise agreed in the special conditions (if any) the obligation of the company to install shall not imply any obligation on the part of the company to train operators in the use of the equipment.

11.8 Save so far as varied by or inconsistent with the foregoing paragraphs relating to installation all other items of these terms and conditions shall also apply to installation.

12. Assignment Etc.

12.1 The benefit and obligations of the contract shall not be assigned or sublet by the customer without the prior written consent of the company. The benefit and obligations of the contract may however be assigned or sublet by the company providing that it shall remain primarily responsible to the customer for its obligation hereunder.

13. Law

13.1 The contract shall be governed by and construed in all respects in accordance with the laws of England and any dispute or difference whatsoever in connection with or arising out of the contract shall, be referred to the courts of the country.

I, the undersigned, have read, understood and agree to uphold all three pages of the Terms and Conditions supplied by Pacific Computers Limited. (This must be signed by a cheque signatory, who has the authority on behalf of the customer)

For and on behalf of _____

Signed _____

Date _____

Printed _____

Position _____