

# Conditions of Sale for IPPBX



YOUR AGREEMENT WITH US (this "AGREEMENT") IS MADE UP OF THE FOLLOWING DOCUMENTS:

- (i) THESE CONDITIONS;
- (ii) THE SERVICE AGREEMENT;
- (iii) THE ORDER SCHEDULES;
- (iv) THE RELEVANT TARIFF(S) FOR THE SERVICES WE AGREE TO PROVIDE TO YOU;
- (v) THE CONDITIONS FOR COMMUNICATION SERVICES; AND
- (vi) ANY OTHER RELEVANT PRODUCT SPECIFIC CONDITIONS.

In these Conditions:

"Authorised Officer" means a director or company secretary of Gamma Business Communications.

"Backorder" means an Order where the Goods are not available at time of Order placement and which are still to be acquired by us from our main supplier;

"Completion" means the completion of the installation of the Equipment by us to a point that should the necessary cabling and electric supply be in place then the Equipment would operate as per the specification.

"Customer" means the person or company who places an Order with us for the purchase of the Goods or the provision of the Services and whose order is accepted by us in accordance with these Conditions;

"Contract" means each individual Contract for the purchase and sale of the Goods or the provision of the Services entered into between us and the Customer of which the Conditions form part;

"Delivery" means the delivery of the Goods being the carrier's notification to the Customer that the Goods are ready to be off-loaded at the address supplied by the Customer for delivery or, in the case of Goods for export, delivery shall be at the air or sea port of shipment unless agreed otherwise in writing by us;

"Goods" means the goods (including any instalment of the goods or any parts for them) which we are to supply including any equipment, machinery, parts, spares, software and any other goods supplied by us (and where appropriate goods, materials or services used on or in relation to the Contract);

"Order" means the Customer's order for the Goods or Services placed with us under condition 2.5 below;

"Services" means the Services to be provided by us to the Customer under these Conditions, which we may subcontract from a third party of its choosing.

## 1. BASIS OF THE SALE / PROVISION OF SERVICES

1.1 All Goods are sold subject to our prior approval of the Customer's credit and to the Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any Order is accepted or purported to be accepted, or any Order is made or purported to be made, by the Customer.

1.2 No variation to these Conditions shall be binding unless agreed in writing by us.

1.3 Other than those made by an Authorised Officer, our employees or agents are not authorised to make any representations concerning the Goods or Services unless confirmed by the Authorised Officer in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and irrevocably waives any claim it may have for damages for or right to rescind the Contract for any such representations

which are not so confirmed (unless such representations were fraudulently made).

1.4 Any advice or recommendation given by us or our employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Authorised Officer is followed or acted upon entirely at the Customer's own risk and, accordingly, we shall not be liable for any such advice or recommendation which is not so confirmed.

1.5 All references in these Conditions to us agreeing, approving, waiving or specifying a matter apply only if such is confirmed in writing by an Authorised Officer of Gamma Business Communications.

1.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by us shall be subject to correction without any liability on our part.

1.7 All implied terms shall be excluded to the fullest extent permitted by law. It is the Customer's responsibility to be aware of the Conditions as current from time to time. The Customer is invited to contact an Authorised Officer at any time for a copy of the Conditions, which shall be made available to the Customer upon receipt of such request. The Customer shall be taken to have accepted these Conditions, which shall cover all and any Contracts entered into by and between us and the Customer by either (i) signing our credit account application form (as may be required by us should credit be required) or (ii) placing an order for the Goods or Services which is accepted by us in accordance with these Conditions.

## 2. QUOTATIONS AND FORMATION OF CONTRACTS

2.1 All Contracts between us and the Customer shall be governed by these Conditions to the exclusion of any other terms and conditions including without limitation any terms on or referred to in any purchase order.

2.2 Neither (a) additions to nor modifications of these Conditions nor (b) any other terms and conditions in any document or other communication of/with the Customer shall form part of the Contract unless specifically referred to in these Conditions or unless our Authorised Officer has agreed with the Customer in writing to vary these Conditions.

2.3 In preparing any quotation, we shall be entitled to ask the Customer for, and the Customer shall provide within 15 working days, such information as we may require in its absolute discretion. It shall be a condition of any quotation that the information provided by the Customer is correct, accurate, not misleading and a complete response to our request(s) when provided and remains so for at least until the later of the date when the quotation lapses or the relevant Goods and/or Services are delivered.

2.4 The Customer shall indemnify us in full against all losses, costs, damages, claims, charges and/or expenses (including without limiting effect any obligation to pay any sum(s) to the relevant manufacturer(s) of relevant Goods or the provider of relevant Services) incurred by us as a result (whether directly or indirectly) of information provided by the Customer in accordance with Clause 2.3 being or subsequently becoming incorrect, inaccurate, misleading and/or incomplete or of the Customer acting other than in accordance with such information.

2.5 Our quotation shall be deemed to be an invitation to the Customer to make an offer either in writing, by fax, verbally or

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by electronic or online means (the Order) to purchase the goods or services subject to the Conditions and such offer by the Customer shall not constitute a valid Contract until accepted by us. In accordance with these Conditions we shall be entitled to either accept or to reject the Customers offer and shall for the avoidance of doubt be under no obligation to accept the Customers offer, particularly where its supplier is unable or unwilling to supply the Goods to us for onward supply to the Customer.

2.6 Save where indicated to the contrary on our quotation, the quotation shall automatically lapse after 30 days of the date of the quotation.

2.7 Our acceptance of all Backorders shall be subject to our approval of the Customers credit status.

2.8 The quantity and description of and any specification for the Goods shall be those set out in the our quotation or our acceptance of the Customers Order. The Customer shall be responsible for ensuring the accuracy of the terms of any Order and for giving us any necessary information (which shall include the tasks which the Goods shall be required to perform) within a sufficient time to enable us to perform the Contract.

### 3. CANCELLATION OF ORDERS

3.1 No Order (including Backorders) which has been accepted by us may be cancelled by the Customer except with our agreement in writing and on terms that the Customer shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by us as a result of cancellation. Without limiting its rights under this Condition in any way, we reserve the right to charge the Customer for the lost profit should the Customer cancel the Order without our prior written agreement.

### 4. TERMINATION

4.1 We shall have the right immediately to cancel or to suspend any Order accepted or any delivery to be made under the Contract without any liability to the Customer and, if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary if:

4.1.1 the Customer fails to make any payment when due or breaches any provision of the Contract and the Customer has failed to remedy such breach within 30 days after receipt of notice in writing from us requiring the Customer to do so;

4.1.2 the Customer makes or threatens to make any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or an encumbrance takes possession, or a receiver, administrative receiver or administrator or any similar official under any overseas jurisdiction is appointed in respect of the whole or any part of the assets of the Customer; or the Customer ceases, or threatens to cease, to carry on business; or we reasonably believe that any of these events is about to occur in relation to the Customer;

4.1.3 the Customer commits or is a party to dishonest or fraudulent conduct in relation to this agreement;

4.1.4 there is any distress or execution being levied upon the Customer's property or assets which is not discharged within 14 days.

4.2 The right of termination given by Clause 4.1 shall be without prejudice to any other right or remedy of either party in respect of any breach committed under the terms of this Agreement, which are expressed to survive termination and any provisions of the Contract necessary for the interpretation or enforcement of the Contract.

4.3 We shall have the right immediately to cancel or to suspend any Order accepted or any delivery to be made under the Contract without any liability to the Customer if we are unable to perform the Contract due to circumstances out of its control including but not limited to the circumstances listed in condition 6.1 below.

### 5. DELIVERY

5.1 Unless otherwise agreed in writing with an Authorised Officer the costs of packing and delivery (including costs of carriage, cases and materials) shall be for the Customer's account. If we pay for or incurs all or part of such costs, it shall invoice its costs so incurred to the Customer at the date of dispatch. If we deliver the Goods (as opposed to using a carrier to do so) it will invoice the Customer at our standard rate then in force.

5.2 The Customer warrants the details of any address for delivery stipulated by the Customer. We reserve the right to charge the Customer for any losses incurred by us for failed deliveries/re-routed deliveries where the Customer has provided incorrect/inaccurate details of the delivery address, this is to include failed deliveries where the recipient is not available or is unwilling to accept the Goods (such charges to cover the loss of profit incurred by us).

5.3 Any dates given for the delivery of the Goods are approximate only and we shall not be liable for any loss, direct or indirect, which may arise from delay in Delivery of the Goods howsoever caused. Time for Delivery shall not be of the essence and the Customer shall not be entitled to cancel the Contract by virtue of late Delivery. The estimated Delivery time shall be calculated as from the date of our acceptance of the Customer's Order and (where required by us) any payment, samples, information, licenses and consents necessary to proceed with the Order have been supplied by the Customer. Changed specifications or instructions may result in changes to estimated Delivery times.

5.4 The Goods may be delivered in instalments. Each delivery shall constitute a separate Contract and failure by us to deliver any one or more of the instalments (or faulty Goods) in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

5.5 If the Customer's carrier or other third party nominated by the Customer fails to take receipt of the Goods after being notified that the Goods are ready for Delivery or fails to give us adequate Delivery instructions at the time stated for Delivery or has requested a delay in Delivery or the Customer is unable to give access to its premises for the purposes of Delivery or installation then we may at the risk and expense of the Customer:

5.5.1 store the Goods until actual Delivery and charge the Customer for the costs (including insurance and transport costs) of storage and re-Delivery; or

5.5.2 sell the Goods at the best price readily obtainable and (after deducting all storage, selling and other expenses) account to the Customer for the excess over sums owing by

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the Customer or charge the Customer for any shortfall. The date of the Goods being put into storage shall be deemed to be the date of Delivery and, unless the Goods have already been paid for, the Customer shall be invoiced for the Goods at that date. Once the Goods are in storage, we will not have any obligation to take any further steps in relation to the Goods, unless and until has received full written instruction from the Customer.

5.6 Where Goods are to be exported out of the United Kingdom by us to the Customer or by the Customer to the Customers order the provisions of this clause 5.6 shall (subject to any special terms agreed in writing between the Customer and us) apply notwithstanding any other provision of these Conditions:

(i) The terms of purchase will be subject only to the manufacturers warranty and the Customer shall be solely responsible for ensuring that it fully understands and is aware of such warranty terms.

(ii) The relevant tax legislation will be applied in accordance with and under the United Kingdom legislation at the time of the contract.

(iii) The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

(iv) Unless otherwise agreed in writing between the parties, the Goods shall be delivered fob at the air or sea port of shipment

(v) the Customer shall be responsible for arranging for testing and inspection of the Goods before shipment. We shall have no liability for any claim in respect of any defect in the Goods, which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

(vi) The Customer shall not be entitled to withhold payment of the price for the Goods due to the Customers failure to comply with the provisions of this clause.

(vii) The Goods will be packaged in accordance with our standard practice, and the packaging shall meet any reasonably requirements stipulated in advance by any independent contractors or shippers.

5.7 The Customer's failure to make due payment in respect of any deliveries or instalments under any Contract shall entitle us to delay, suspend or cancel deliveries in whole or in part as its option.

5.8 In no case shall any dispute concerning (1) any item or separate part of the Goods or work (2) any other contractual obligation or liability of ours to the Customer affect the Customer's obligation in respect of payments to be made under these Conditions

5.9 Where the Customer is unwilling to take Delivery of the whole quantity of the Goods at the due time, then any discount or other allowance in respect of the Goods, which is or would be otherwise be allowed to the Customer shall be forfeited by the Customer.

### 6. ACCEPTANCES AND RETURNS PROCEDURE

6.1 We shall not be liable in respect of any damage to the Goods, discrepancy in the Customer's order, shortage in the Goods Delivered, loss of the Goods in transit or any claim that the Goods delivered or collected do not otherwise comply with the Contract other than in accordance with this Condition and the Warranty clause referred to below.

6.2 Damage, discrepancies, shortages and Invoice Queries:

(i) The Customer shall be responsible for inspecting the box /parcel contents containing the Goods on Delivery to check the Goods for damages, discrepancies and shortages.

(ii) The contents of our invoice including the price for the Goods, Goods description, Delivery charge or any other invoice related query (with the exception of those referred to in (iii) below), shall in the absence of a manifest error, be deemed to have been accepted by the Customer as correct unless the Customer notifies us within writing within 14 days of the date of invoice.

(iii) The Customer shall notify us in writing within 48 hours of Delivery of any short Delivery of Goods, any damaged Goods Delivered or any non shipment of Goods detailed on the proof of Delivery.

(iv) Save for the receipt by us of the Customer's notification under (ii) and (iii) above, we shall have no liability whatsoever to the Customer in respect of any discrepancies on our invoice or any claims for short Delivery or damaged Goods and the "deliveries" or "arrivals" note signed by the Customer, or its customer, or agent indicating that the Goods are in good order on arrival shall be conclusive proof of the same and shall bind the Customer.

6.3 Goods that fail on installation ("D.O.A's"): We operate a returns procedure for D.O.A's. Further details of the D.O.A returns procedure are available on request. The D.O.A returns procedure may vary depending on the manufacturer of the Goods and will be notified to the Customer upon the Customer notifying us that the Goods have apparently failed on installation.

6.4 Goods that fail after installation ("Faulty Goods"): In no circumstances may the Faulty Goods be returned to us by the Customer without our prior written consent. The Customer must notify us of the fault becoming apparent and follow the instructions notified to it by us in relation to the fault.

6.5 General provisions relating to D.O.A's and Faulty Goods: (1) The Customer shall pay all our reasonable costs and expenses (to be quoted by us) if the Goods suspected to be D.O.A or Faulty Goods prove not to be D.O.A or Faulty Goods. (2) The Customer shall be responsible for all transportation and insurance costs relating to returned Goods. (3) We shall not be responsible for installation of returned Goods after repair or exchange. (4) Any labour costs and expenses incurred in extracting defective parts and/or components shall be borne by the Customer and if incurred by us shall be paid for by the Customer at our then standard applicable rate. (5) The Customer shall also be responsible for all our costs if we agrees to collect the Goods for return and such Goods are not ready for collection at the agreed time.

6.6 Where approved in writing by us, the Goods or part of the Goods to be returned must be delivered to our premises in its original packaging together with supporting documentation showing full description of the alleged fault and quoting the relevant returns number. In the event that the Customer fails to comply with this requirement then we will be entitled to charge a 20% minimum-handling fee upon authorised return of the Goods.

6.7 We shall be under no obligation to accept return of any Goods other than as provided in the warranty clause.

### 7. PRICE

7.1 All our prices ("Price") are quoted subject to acceptance within any period specified and to any increase which may

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occur as a result of factors falling outside our control, which without limitation, shall include any of the following circumstances:

(a) where the Customer has requested (whether before or after a Contract has been made) any variation whatsoever to the quantity, capacity, form, content, style or description of the Order or Goods and/or, or has requested an earlier or a later Delivery date to that originally specified; or

(b) where the steps are taken by us to comply with any statutory provisions from time to time in force, and any increases in the price charged to us of any equipment or goods bought in from outside suppliers so as to enable us to fulfill the Contract; or

(c) where the supply of the Goods or the provision of Services is suspended, varied or otherwise delayed by the Customer, including without limitation, any delay caused by:

(i) failure to provide us with sufficient information to enable us to proceed with, or to complete the supply of the Goods and/or the provisions of the Services; or

(ii) increases Delivery charges; or

(iii) increases in the costs of insurance for the Goods; or

(iv) any special or extraordinary handling charges; or

(v) changes in exchange rates.

7.2 Unless otherwise stated, the costs of Delivery and VAT and any other applicable customs or excise duties or taxes (where applicable) will be added to all invoices at the rate ruling at the date of despatch, which will be added and shall be payable by the Customer in accordance with the law applicable from time to time against an appropriate invoice.

### 8. PAYMENT

8.1 Payment of the Price or any part thereof and any other charges due under the Contract must be made by the Customer within 14 days from the date of our invoice (unless otherwise specified in writing by an Authorised Officer). The Customer agrees to the following payment schedule:

40% of the full order value on order acceptance, and

40% of the full order value on Delivery, and

20% of the full order value on Completion.

8.2 We shall be entitled to charge interest on all late payments by the Customer on any money which is not paid by the Customer to us under the Conditions by the due date for its payment ("the Due Date for Payment"). Such interest shall accrue and be calculated on a daily basis from the Due Date for Payment, both before and after any judgement and until the date on which it is actually paid, at a rate equivalent to the rate prevailing at the Due Date for Payment as prescribed by the Secretary of State pursuant to section 6 of The Late Payment of Commercial Debts (Interest) Act 1998. Interest shall be compounded quarterly and be payable on demand.

8.3 All overdue debts shall be subject to an administration charge of 5% of the total account balance.

8.4 The Customer shall make all payments in Pounds Sterling immediately when due without set off, deferment, deduction or withholding whatsoever (whether on account of any claim or counterclaim or otherwise). Where payments in an alternative currency are authorised in writing by the Authorised Officer prior to the contract being concluded, such payments shall be made by telegraphic transfer to the account to be designated by the Authorised Officer from time to time.

8.5 The time of payment shall be of the essence of the Contract.

8.6 The Customer shall fully and effectively indemnify us against the total expense to us arising out of the Customer's breach or breaches of these Conditions. Such expense shall include (without limitation) (i) all expenses incurred by us in sourcing the Goods (ii) all court fees (iii) all amounts payable to our professional advisers (payable on an indemnity basis) in pursuing claims against the Customer for breach or breaches of these Conditions and for enforcing any judgement/s and/or order/s (iv) all amounts payable to our insurers and/or debt recovery agents, in each case including anticipated sums payable by us only after payment of any sums from the Customer.

8.7 For the purposes of Delivery, we shall be entitled to act as agent for the Customer and for and on behalf of the Customer as principal to enter into any contract of carriage and or insurance on behalf of the Customer and at the Customer's sole cost and expense as we deem reasonably necessary but we shall not be under any obligation or duty to do so. The Customer shall be responsible for complying with all conditions and requirements of the carriers of the Goods.

8.8 On the happening of a "Relevant Event" we shall be entitled in its sole and absolute discretion to alter its terms of payment (other than those payment terms agreed in respect of those contracts which have already been agreed with the Customer) or to alter any credit terms which may have been granted. For the purposes of this condition, a "Relevant Event" shall be defined as being:

(i) where we are notified or otherwise reasonably believes that the Customer's credit record has worsened to a level unacceptable to us; or (ii) where we in our sole discretion deems the Customer's financial position to be unacceptable; or (iii) where we trade indemnity insurers require such alteration.

8.9 Notwithstanding the provisions of Condition 8.8, we reserves the right to withdraw any credit facilities afforded to the Customer at any time, without notice.

8.10 In the event that the trading relationship between us and the Customer is terminated for whatsoever reason then all, sums due by the Customer shall immediately become due and payable.

### 9. RETENTION OF TITLE AND RISK

9.1 The risk in the Goods shall pass to the Customer on Delivery. At that moment, the Customer shall become responsible for the care and protection of the Goods and shall take out at its own expense adequate and comprehensive all risks cover on the Goods (with a note of our interest endorsed therein until we have received payment of the price in full).

9.2 Notwithstanding Delivery and the passing of risk in the Goods, title in the Goods (including full legal and beneficial ownership) shall not pass to the Customer until we have received (in cash or cleared funds) payment in full for all Goods supplied by us to the Customer under all contracts between them. Payment of the full price for the Goods shall include the amount of any interest or other sums payable under contracts between us and the Customer.

9.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as our fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as our property. Until that time or until otherwise notified by us in writing or until the happening of any event set out in these Conditions entitling us



to terminate this Contract the Customer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to us for the proceeds of the sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Customer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

9.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold) we shall be entitled at any time to require the Customer to deliver up the Goods to us and, if the Customer fails to do so forthwith, to enter upon any premises or vehicles of the Customer or any third party where the Goods are stored and repossess the Goods.

9.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain our property.

9.6 Where the Customer uses banking facilities or factoring or an invoice discounting company which involves the selling of debtors or using debtors as security, the Customer shall notify the bank, the factoring or invoice discounting company concerned of our interest in the Goods and specifically that title in the Goods has not passed until the invoice has been paid in full and otherwise as set out in these Conditions.

### 10. LIMITED WARRANTY

Subject always to the Customer complying with the provisions of these Conditions and more particularly Condition 6 & 8 above:

10.1 We will (at our option) either (i) refund the price (ii) make good by repair (iii) exchange the Goods which are shown to our reasonable satisfaction to have proved defective in materials or workmanship within the manufacturer's specified warranty period. We shall at our sole discretion decide whether such making good shall be effected at the offices of the manufacturer of the goods or the Customer's or our offices.

10.2 The warranty contained in this Condition is in lieu of all warranties whatsoever (whether expressed or implied and whether arising at common law or by statute) all of which are hereby excluded to the full extent permitted by law. We do not attempt to exclude the warranty as to title implied by law.

10.3 The warranty contained in this Condition shall not apply if (i) the repair or replacement is required because of an accident, neglect, misuse, or failure to maintain the Goods on the part of the Customer (ii) there is interference with the Goods by persons other than our engineers (iii) the Customer uses equipment, spares or unapproved installation of software products in the Goods or the installation of any software for which the Customer has not obtained a license if one is required to operate the software which damages the Goods or causes them to malfunction. (iv) any sum owing to us by the Customer has not been paid. All such matters shall be the entire responsibility of the Customer for all purposes.

10.4 We warranty under this Condition for defective Goods shall only operate where we are able to claim under the Manufacturers or Publishers, dead on arrival warranty or other defective goods terms and actually obtains from the Manufacturer or Publisher a refund credit in respect of the defective Goods. For example and without limitation if the Manufacturers or Publishers defective goods terms requires that Goods are to be returned direct to it or a nominated

service provider we cannot and shall have no obligation to accept a return of and/or grant a credit for such Goods.

### 11. LIMITATION OF OUR LIABILITY

11.1 Our liability under any Contract is limited to making good defects or failures to the extent described in condition 6 above.

11.2 We shall not be liable for any increased costs, expenses, loss of profits, goodwill, business, contracts, revenues or anticipated savings or any type of special indirect or consequential loss (including loss or damage suffered by the Customer as a result of an action brought by a third party) even if such loss was reasonably foreseeable or we had been advised of the possibility of the Customer incurring the same. In any event, our entire liability for direct loss or damage arising from damage to tangible property for which we are liable shall be limited only to the vat exclusive price of the relevant product or service in connection with which any claim for damage or loss is made.

11.3 We do not attempt to limit liability for personal injury or death caused by its negligence or the negligence of its employees or agents. To the extent the law does not permit such liability to be excluded, we do not attempt to limit its liability for damage to the tangible property of the Customer resulting from our negligence to the extent that we are insured against such loss.

11.4 The Customer undertakes with us that it will ensure compliance so far as is reasonably practicable by its employees, agents, licensees with any instructions given by us or the Manufacturer for the purpose of insuring the Goods will be safe and without risk to health when properly used and will take any steps and precautions, having regard to the nature of the Goods as are necessary to preserve the health and safety of persons handling, using or disposing of them.

11.5 We give no undertaking that the Goods are fit for any particular purpose (including any purpose for which such Goods are commonly supplied) or is of any particular quality in respect of its appearance, finish, safety, durability or freedom from defects or otherwise. The Customer having greater knowledge of his own requirements relies entirely on his own skill and judgement in evaluating whether the equipment is in every respect of satisfactory quality.

11.6 Nothing in these conditions shall in any way exclude or limit any liability we may have for death or personal injury caused by its negligence.

### 12. PERFORMANCE DATA AND SPECIFICATIONS

12.1 The Customer shall not rely upon any representations as to the Goods or their fitness for any particular purpose unless we specifically agree these in writing.

12.2 Any performance figures quoted or referred to by us are estimates only, based on assumed conditions in a well managed office with experienced, adequate and efficient operators and appropriate services, and proper use of satisfactory materials.

12.3 We reserve the right to make any alteration to or departure from the specifications or design of the Goods ordered provided that this shall not to a material extent adversely affect the performance of the Goods or the quality of the workmanship of the materials unless such alteration to or departure from the specifications or design are required in order to make the Goods conform to any applicable safety or other statutory or regulatory requirements from time to time.

12.4 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by us shall be subject to correction without any liability on our part. All specifications, drawings and technical documents issued by us either before or after conclusion of the contract are issued solely for the Customers use in connection with the Goods and shall not be copied, reproduced or communicated to any third party without our approval.

### 13. TELECOMMUNICATIONS GOODS

Where the Goods supplied by us are to be used in conjunction with British Telecom ("BT") lines or apparatus then the following additional Conditions shall apply: (i) BT shall have the right to require modifications to be carried out to Goods already installed and in use and the modifications will be carried out at the Customers expense (ii) the Customer shall indemnify us against all and any liability, cost or expense arising out of or in connection with damage, loss or injury to BT goods or personnel in connection with or arising out of the Customers acts or omissions.

### 14. FORCE MAJEURE AND FRUSTRATION

We shall (1) in any event not be liable for loss or damage and (2) be entitled to cancel or rescind the Contract if the performance of its obligations under the Contract is in any way adversely affected by any cause whatsoever beyond our control including (but not limited to) the delays or default of supplies or the defaults of any sub-contractor, act of God, explosion, fire or accident, war, threat of war, sabotage, insurrection, civil disturbance, requisition, Acts, restrictions, regulations, bye-laws, prohibitions or measures of any Government or Parliamentary or Local Authority, strike, lock-out, trade disputes, flood, accident to plant or machinery, shortage of materials or labour, import or export regulations or embargoes. If due to any such event we have insufficient stocks to meet all its commitments then we may apportion available stocks between its Customers at its sole discretion.

### 15. CONFIGURATION

15.1 On agreement we will provide configuration services to the customer. Configuration services will be at the price agreed at the time the order is taken or confirmed. The Customer shall be solely responsible for the accuracy of its order, the specification of the components and their configuration and for ensuring that the configured product specified is satisfactory for the purpose for which it is required, including without limit that it has sufficient overall functionality and will support, be compatible and inter-operable with any hardware, software and middleware with which it is intended to operate.

15.2 Configuration services will have a warranty of 14 days from the date of shipment to the Customer. Our sole liability (and the Customer's sole remedy against us) in respect of any defective services for which we are responsible shall be the repair by us or at our sole option the replacement of the Goods on which the services have been performed. (If any alleged defect shall be attributable to defect in the Goods the provisions of clause 14 shall apply). Claims in respect of defective service must be made within 21 days of the date of Delivery of the configured Goods.

### 16. GENERAL

16.1 The Customer shall not without our prior written consent assign or purport to assign any of its debts or obligations owed to us to any associated company of the Customer or to any third party whatsoever.

16.2 Where we have agreed to grant credit terms to the Customer under these Conditions the Customer undertakes to immediately notify us in writing of the existence of and the identity of any associated companies under common ownership with the Customer. This obligation is a continuing obligation such that, if at any time after credit has been granted any other company comes into common ownership with the Customer the Customer shall inform us of this. It is agreed that the requirements under this clause are of the essence of the Contract.

16.3 We may assign its rights and obligations. The Customer may not assign its rights and obligations.

16.4 No delay or failure by us in enforcing any provision shall constitute a waiver of that provision or any other provision. No waiver by us of any breach of the contract shall be considered as a waiver of any subsequent breach of the same or any other provision.

16.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

16.6 Our rights are cumulative and in addition to any rights available to it at common law.

16.7 These Conditions are our current Conditions of sale. We maintain the right to add to or amend these Conditions. The Customer will be responsible for satisfying themselves as to the Conditions on an ongoing basis and currently applicable to the transaction/ (s) in hand, by either viewing our website or requesting a hard copy direct from us.

16.8 Nothing in these Conditions shall confer on any third party (that is, any party other than us or the Customer) any benefit or the right to enforce any term of these Conditions and the application of the Contracts (Rights of Third Parties) Act 1999 to these Conditions is hereby excluded.

16.9 The parties agree that these Conditions shall be constructed in accordance with English law and for the exclusive benefit of Gamma Business Communications that the Courts of England are to have the exclusive jurisdiction to settle any disputes which may arise in connection with these Conditions; but the Customer agrees that we shall be entitled to bring proceedings in connection with these Conditions in any other court of competent jurisdiction.