# Silvertel- Terms and Conditions of Sale

## 1 INTERPRETATION

In these terms and conditions "the Company" means Silver Telecom Limited "the Buyer" means the party with whom the Company is contracting and "goods", where the context so permits and requires, means the goods and/or services which the Company contracts to supply and/or to provide and "Conditions" means the following terms and conditions of sale.

## 2 THESE CONDITIONS APPLY

2.1 Unless the Company shall otherwise expressly agree in writing by way of written approval from the board of directors of the Company, every offer, tender, quotation, acceptance and contract or the sale or supply of goods, including services ancillary thereto, by the Company is made subject to these conditions and all other terms and conditions proposed by the Buyer (including but not limited to any indemnities or guarantees proposed to be entered into by the Company) are expressly excluded. No modification of these terms and conditions shall be effective unless agreed in writing by way of written approval from the board of directors of the Company. No binding contract shall be created by the acceptance of a quotation or offer made by the Company until notice of acceptance of the order in writing signed by a person duly authorised shall have been given to the Company by the Buyer.

2.2 These terms and conditions constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these terms and conditions. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms and conditions.

2.3 In the absence of any agreement in writing expressly excluding or varying the Conditions the Conditions apply to contracts for the sale of goods arising on acceptance by the Company, by whatever means, of any order received via the interchange of data by tele-transmission (Electronic Data Exchange).

2.4 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.5 Any advice or recommendation given by the Company or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Company is followed or acted upon entirely at the Buyer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

2.6 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 the Company shall be subject to correction without any liability on the part of the Company.

## 3 BUYER CREDIT STATUS

Unless and until the credit status of the Buyer has been approved by the Company the acceptance by the Company of any order is conditional on its approval of such credit status.

## 4 PRICES

4.1 All quotation prices are based on costs payable by the Company ruling on the date of quotation. Such costs may increase between quotation and delivery date. The Company shall have the right, by giving notice to the Buyer at any time before delivery, to increase the price of any goods to reflect any increase in cost to the Company. Exercise by the Company of this right shall not entitle the Buyer to cancel the contract. All prices quoted are exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Company.

4.2 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

4.3 Where any additional or changed information is submitted to the Company by the Buyer after the date of the Contract the Company reserves the right to increase prices to cover any additional costs (including additional overheads) incurred by the Company as a result of such alteration and/or to extend the delivery period.

4.4 All prices are ex works unless otherwise stated. Carriage by whatever method may, at the Company's option, be charged to the Buyer in addition.

4.5 The Company shall be entitled to charge at such rate as shall be fair and reasonable for all preliminary or development work which the Company carries out at the request of the Buyer.

4.6 The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

4.7 No order which has been accepted by the Company may be cancelled by the Buyer except with the agreement in Writing of the Company and on terms that the Buyer shall indemnify the Company 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 the Company as a result of cancellation.

4.8 A quotation is available for acceptance for thirty days from the date thereof and lapses, if not previously accepted, at the end of that time.

4.9 The Company shall be entitled to make a surcharge for fulfilling any order with a value less than such minimum as the Company shall from time to time fix as its current minimum order price.

4.10 Where the Buyer requests items to be supplied with a Certificate of Conformance the Company reserves the right to make an extra and reasonable charge for providing such a certificate.

## 5 QUANTITY

5.1 The price quoted is for the stated quantities only and not for materially lesser or greater quantities.

5.2 Unless otherwise agreed in writing the Company shall have the right to deliver a quantity of goods up to five per cent more or less than the quantity ordered, in which case any price agreed for such delivery shall be adjusted pro rata to the quantity of goods actually delivered.

## 6 SCHEDULE ORDERS

6.1 A Schedule Order, when accepted by the Company, shall constitute authority for the manufacture of all goods in the Schedule Order. The Buyer shall be obliged to take delivery of and pay for all goods in the Schedule Order.

6.2 The Buyer shall take delivery of goods in a Schedule Order within twelve months from the date of acceptance of the Schedule Order by the Company.

6.3 The Buyer shall be entitled by notice in writing to bring forward or to postpone the date of delivery of goods in a Schedule Order but, unless the Company expressly otherwise agrees in writing, not in the case of custom goods by less than eight weeks' notice and in any other case by less than four weeks' notice. Delivery can only be delayed once and by a maximum of 1 month.

6.4 The Buyer shall at all times be liable to pay to the Company all costs and losses incurred by the Company in respect of goods in a Schedule Order including (but without limitation) those in respect of finished goods, work in progress, materials acquired by the Company for the purpose of fulfilling the Schedule Order and manufacturing tools.

## 7 INVOICING AND PAYMENT

7.1 The Company will be entitled to invoice the Buyer on the date on which the goods are despatched. If the Company agrees at the request of the Buyer to defer delivery of any goods or suspends delivery of any goods in accordance with condition 7.8 or extends the delivery in accordance with condition 4.2 or 8.1, the Company will be entitled to invoice the Buyer for such goods on the date on which they would otherwise have been due for despatch.

7.2 In the case of contracts for the supply by the Company of custom goods, charges for design artwork and tooling charges may be invoiced by the Company at the time of shipment of the first prototype. Minor component or layout changes not affecting costs may at the Company's discretion be accepted without extra charge, provided notification is received in writing before design starts or within three working days of receipt by the Company of the Buyer's order, whichever is the earlier. The Company reserves the right to invoice at the time of shipment of the first prototype any additional design tooling or prototype manufacturing charges arising from changes requested by the Buyer after the contract has been entered into.

7.3 Unless the Company notifies the Buyer otherwise, payment is due, whether or not title to the goods has passed to the Buyer, thirty days after the date of invoice. The time of payment of the price shall be of the essence to the Contract.

7.4 Unless otherwise expressly agreed in writing by the Company, payment in full without discount shall be made in Pounds Sterling and the Buyer shall not be entitled for any reason to withhold payment of the amount shown on the invoice as due.

7.5 Payment is made and received only at the time when cash is handed to a duly authorised representative of the Company who issues an official written receipt therefor or when any cheque or draft sent or delivered to the Company is cleared and/or the Company's bank account credited with the relevant amount, and not at any earlier time.

7.6 If goods are for delivery outside the United Kingdom, the Company, unless otherwise agreed with the Buyer, shall be entitled to payment by irrevocable letter of credit confirmed by a bank approved in writing by the Company against the usual documents. The Buyer shall reimburse to the Company any costs and expenses which are incurred by the Company in receiving payment by irrevocable letter of credit.

7.7 The Company reserves the right to charge interest at the rate of three per cent per annum above Lloyds Bank Plc Base Rate for the time being on all overdue accounts from the due date until the date of actual payment.

7.8 If the Company fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

7.8.1 cancel the contract or suspend any further deliveries to the Company;

7.8.2 accelerate the time for payment of all outstanding invoices so that they are all due and payable;

7.8.3 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Buyer); and

7.8.4 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 3 per cent per annum above Lloyds Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

7.9 If the Company exercises its right to suspend delivery of goods in accordance with Condition 7.8 the dates for delivery of all goods under all contracts in existence at the time when the Company exercises such right of suspension shall, unless the Company otherwise decides, be postponed by a period equal in length to that of the delay in payment by the Buyer entitling the Company to suspend deliveries (or, if the suspension shall be in respect of payments due on more than one date, for the period during which the earliest such payment shall be delayed).

7.10 Time for payment is of the essence.

## 8 MANUFACTURING SPECIFICATIONS

8.1 Where any specification is to be supplied by the Buyer it must be supplied within fourteen days of the contract being entered into. Delay in the supply of such specification will entitle the Company to defer delivery of the goods.

8.2 Where goods have been supplied to the Buyer's specification, the Company accepts no liability for any defect in goods which meet that specification and the Buyer shall indemnify the Company against all actions, claims, costs and proceedings, in respect of such goods including claims that the specification or goods infringe(s) any patent (whether registered or patent pending), registered design, know-how, copyright, trade mark or other industrial or intellectual property right of any third party. The Company gives no warranty as to the fitness for any particular purpose of or as to the performance of goods so supplied to the Buyer's own specification and accepts no liability for clerical or stenographical errors on any drawings or specification provided by the Buyer.

## 9 DELIVERY

9.1 Although the Company will make every effort to deliver on the agreed date, time for delivery is not of the essence of the contract. Any quoted delivery date or period is a business estimate only and is conditional on the Buyer, at the time of placing the order, providing the Company with such information concerning the Buyer's requirements as enables the Company to fulfil the order. The Company shall be not liable for any loss or damage whatsoever caused by delayed delivery of goods. Delay in delivery will not entitle the Buyer to rescind the contract.

9.2 Delivery of the Goods shall be made by the Buyer collecting the Goods from the Company's premises on the delivery date. In the event that the Company agrees to vary its delivery methods the means of delivery will be confirmed in the quotation as either a FOB Contract or a CIF Contract in which case the following terms shall apply:-

9.2.1 In the event that it is agreed that the Goods shall be delivered on a FOB basis, the Goods shall be delivered to the Buyer by delivery on board the transporting vessel on the delivery date. The Company shall notify the Buyer that the Goods have been delivered on board. Title to and risk in the Goods shall pass to the Buyer upon such delivery being effected and the Buyer must thereafter insure the Goods. No claim for damaged Goods, shortages or non delivery will be accepted by the Company unless written notice of such damage or shortage is received by the Company within 21 days of receipt of delivery.

9.2.2 In the event that it is agreed that the Goods shall be delivered on a CIF basis, the Goods shall be delivered to the Buyer at the Named Port on or before the delivery date. The Company shall procure a Contract of Carriage from dispatch until delivery on terms current in the trade for the benefit of the Buyer. The Goods shall be at the risk of the Buyer as they are loaded on board. The Company shall promptly tender to the Buyer a clean shipped bill of lading. The Buyer is responsible for insuring the goods

9.2.3 The Buyer shall be responsible for complying with any legislation or regulations governing the exportation and importation of the Goods and carry out, where applicable, all customs formalities for the exportation of the Goods including obtaining at its own risk and expense any export and import licence or other official authorization. The Company will render the Buyer upon request, and at the Buyer's risk and expense, every assistance in obtaining any documents or equivalent electronic messages issued or transmitted in the country of delivery and/or origin which the Buyer may require for the export and/or import of the Goods and, where necessary, for their transit through any country.

9.2.4 Unless otherwise agreed in writing between the Buyer and the Company, the Buyer shall insure the Goods from the point of delivery. The Company will provide the Buyer, upon request, any necessary information for procuring insurance.

9.3 The Buyer must notify the Company by telephone of any non delivery or short delivery or loss or damage to goods in transit immediately upon delivery of the goods or of the invoice therefor (whichever is the earlier) and must confirm the same in writing within seventy two hours thereafter; the Buyer shall at the same time notify any carrier in writing of any such loss or damage and if relevant shall enter a note of the same on the carrier's receipt. If the Buyer fails to give notice as provided above and the Company is precluded from making recovery whether from any insurer or any other third parry in respect of the loss or damage complained of then the Buyer shall be liable to pay for the goods as though no such loss or damage had occurred.

9.4 If any carrier of any consignment of goods receives an unqualified receipt therefor by or on behalf of the Buyer, the Company shall have no liability to the Buyer for loss of or damage in transit to such goods or for misdelivery or non-delivery thereof.

9.5 Unless otherwise agreed in writing the Company may at its discretion deliver the goods by instalments in any sequence.

9.6 If the goods are delivered by instalments each instalment shall be deemed to be the subject of a separate contract and no default or failure by the Company in respect of any one or more instalments shall avoid the contract in respect of goods previously delivered or undelivered goods.

9.7 The Buyer shall be responsible for unloading the goods. Personnel of the Company involved in such unloading shall be deemed to be under the control and direction of the Buyer. The Company shall have no liability for any act or omission of any such personnel done or failed to be done in the course of such unloading.

9.8 If the Company fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Company's reasonable control or the Buyer's fault, and the Company is accordingly liable to the Buyer, the Company's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

## 10 BUYER'S MATERIALS

10.1 Where the Buyer provides the Company with materials and/or goods on which to work or for the manufacture of the goods the Buyer shall deliver to the Company's premises (as notified to the Buyer) all such materials and/or goods not less than 15 days in the case of card assemblies, 30 days in the case of box build and 10 days in any other case before the date of manufacture of the goods as notified by the Company to the Buyer. If the Buyer fails to deliver all the materials and/or goods to the Company's premises on the agreed date the Company shall have the immediate right to increase the price of the goods to cover any additional costs incurred by the Company as a result of the Buyer's delayed delivery and to revise any agreed delivery dates for the goods.

10.2 The Company shall accept liability for such materials and/or goods only as bailee and such liability shall be limited to the actual manufacturing costs of such materials and/or goods to the Buyer. In particular, the Company shall not be responsible for consequential loss in respect of any loss or damage occurring to such materials and/or goods.

10.3 Carriage of such materials and/or goods to the Company's premises or as ordered by the Buyer shall be at the Buyer's expense and risk.

10.4 The Company shall have a general lien on any such materials and/or goods for any amounts due and owing to the Company and the Company may, after seven days notice sell such materials and/or goods in order to recover amounts due and owing by the Buyer to the Company. The Company shall account to the Buyer for any balance of the proceeds of sale of such materials and/or goods which is outstanding after the deduction of all amounts owing to the Company by the Buyer and the expenses of the sale.

## 11 FAILURE TO TAKE DELIVERY

11.1 If goods are ready for delivery and the Buyer fails to take delivery at the time required by the contract the Company shall be entitled:-

11.1.1 to invoice such goods forthwith; and

11.1.2 to charge at rates giving an economic return for the handling and storage of such goods, and for their insurance, from the date of invoice to the date when the Buyer takes delivery or the Company disposes of the same.

11.2 If the Buyer fails to take delivery within thirty days of date of invoice it shall be deemed to have repudiated the contract and without prejudice to any other right which it may have against the Buyer , the Company shall be entitled to resell the goods

## 12 WARRANTY AGAINST DEFECTS

12.1 The Company warrants that at the time when they leave the premises of the Company all goods correspond with their specification and are free from defect in material and workmanship for a period of 12 months provided that the Company's liability under this warranty shall be limited to either, at the Company's discretion, replacement of goods free of cost to the Buyer or payment by the Company to the Buyer of an amount not exceeding the original purchase price of the goods in respect of which notice of the defect is given to the Company within twelve months of the date of invoice and which are returned to the Company carriage paid within seven days of the Buyer first becoming aware of the defects.

12.2 The warranty contained in condition 12.1 above is given in lieu of and shall be deemed to exclude all other warranties and conditions whether express or implied and whether arising by common law statute or otherwise other than relating to title to the goods.

12.3 The warranty contained in condition 12.1 above does not apply to and the Company accepts no responsibility for defects in or for the performance of goods which have been tested in accordance with the Buyer's express contractual requirements and have satisfied such tests.

12.4 The Company shall be under no liability under the warranty contained in condition 12.1 if the total price for the Goods has not been paid by the due date for payment.

12.5 The warranty contained in condition 12.1 does not apply to and the Company accepts no responsibility for defects in goods or for the goods not conforming to specification or any failure in performance of the goods if the goods are defective or do not conform to specification or fail to perform as a result, direct or indirect, of including any material or part which the Company has purchased (1) from a supplier nominated by the Buyer or from whom the Company has been requested by the Buyer to purchase the same or (2) in circumstances in which the Buyer has limited the Company's choice of suppliers of the material or part to three or less suppliers.

12.6 Unless otherwise expressly agreed by the Company the warranty contained in condition 12.1 does not apply to and the Company accepts no responsibility for:

12.6.1 damage occurring in transit;

12.6.2 goods which have suffered or been subject to use otherwise than in accordance with the instructions or advice of the Company or undue wear and tear, accident, mis-use, improper application, neglect or overloading;

12.6.3 consumable items;

12.6.4 any liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company’s instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company’s approval; or

12.6.5 any liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer.

12.7 The above warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.

12.8 The Buyer shall not rely upon any representation concerning any goods supplied unless the same shall have been made by a person authorised by the Company in writing.

12.9 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

12.10 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Company accordingly, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

12.11 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Buyer.

12.12 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Buyer in respect of the quality, condition or description of the goods or for loss or damage or by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any direct, indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) and whether for breach of any express or implied provision of the Contract or breach of statutory or other duty which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

12.13 If items or materials are supplied by the Buyer to the Company or if the Company is obliged or requested by the Buyer to purchase items or material from a supplier nominated by the Buyer or in circumstances in which the Buyer has limited the Company's choice of supplier of the items or material to three or less, in any such case for work to be performed by the Company on such items or material or for incorporation in goods to be supplied by the Company to the Buyer, the liability of the Company shall be limited to rectifying the work or satisfactorily repairing the work or in the case of items or material supplied by the Buyer to carrying out like work on replacement items or materials supplied by the Buyer free of charge and in no event shall any such liability of the Company continue after the items concerned have been inspected by the Buyer or delivered to the Buyer or have left the United Kingdom whichever shall be the earliest.

12.14 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:

12.14.1 Act of God, explosion, flood, tempest, fire or accident;

12.14.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

12.14.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

12.14.4 import or export regulations or embargoes;

12.14.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);

12.14.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

12.14.7 power failure or breakdown in machinery.

## 13 RISK, PROPERTY AND RETENTION OF TITLE

13.1.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

13.1.2 in the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Buyer that the Goods are available for collection; or

13.1.3 in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

13.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Company to the Buyer for which payment is then due.

13.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Company'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 Company's property, but the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.

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

13.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Buyer does so all moneys owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

13.6 Notwithstanding the provisions of condition 13.1 above, the Buyer shall be entitled to dispose of the goods for the account of the Company (but so that any warranties, conditions or representations given or made by the Buyer to his customer shall not bind the Company which shall be indemnified by the Buyer in respect thereof) and to pass good title to the goods to any customer which is a bona fide purchaser for value without notice of the Company's rights.

13.7 Where the contract goods are resold by the Buyer and at the time of such resale the property in such goods has not passed to the Buyer then the proceeds of such resale will be held by the Buyer in a fiduciary capacity on trust for the Company and the Buyer will account to the Company for the same to the extent necessary to pay the price for the contract goods and the Company shall have the additional right to recover in the name of the Buyer (for which purpose the Company is hereby appointed the Buyer's attorney) any price payable to the Buyer by his customer but if it shall exercise such right the Company shall account to the Buyer for the balance of the amounts recovered after recouping all debts due to the Company from the Buyer and the costs of such recovery.

## 14 COMPANY'S REMEDIES

14.1 If the Buyer shall make default in any material respect in its obligations to the Company, or if any distress or execution shall be levied upon the Buyer's property or assets, or if the Buyer shall make or offer any arrangement or composition with its creditors or if there shall be any other grounds upon which the Buyer shall become insolvent for the purposes of the Insolvency Act 1986 or any resolution or petition to wind up the Buyer or for the appointment of an administrator of the Buyer shall be passed or presented or if the Buyer ceases, or threatens to cease to carry on business the Company (without prejudice to any other right to which it may be entitled):-

14.1.1 may suspend or terminate the contract or any unfulfilled part thereof without prejudice to its existing rights thereunder.

14.1.2 may stop any goods in transit

14.1.3 may recover from the Buyer's premises any goods which are the property of the Company; and

14.1.4 shall be entitled to claim against the Buyer for any loss or damage sustained as a result of such suspension or termination.

14.2 If items or materials supplied by the Buyer for working by the Company are defective the Buyer shall be liable to the Company for the cost of all work performed by the Company thereon including work to remedy such defects.

## 15 INDEMNITY BY BUYER

The Buyer shall indemnify the Company against all liabilities costs and expenses which the Company may incur by reason of any claim by any subsequent purchaser or user of the goods or of any product incorporating the goods or manufactured by using the goods or by reason of any claim by any relative or dependant of such purchaser or user arising from any defect or alleged defect in the goods or in such product except and to the extent that such liabilities, costs and expenses arise from a breach by the Company of its obligations under these conditions.

## 16 RETURNED GOODS

16.1 No contract for goods ordered may be cancelled by the Buyer and save as otherwise provided in these conditions no goods may be returned without the prior written consent of the Company.

16.2 If the Company agrees to accept return of any goods the Buyer shall be obliged to effect the return of such goods in good condition and at its own risk and cost.

16.3 Notwithstanding any agreement to accept return of goods the Company will not be obliged to accept delivery of any returned goods unless they are returned in cartons which are undamaged and which have not been opened since their despatch by the Company.

## 17 HEALTH AND SAFETY

17.1 The Company has available up-to-date information and/or product literature concerning the conditions necessary to ensure that the goods supplied will be safe and without risk to health when properly used. This information is and will remain available from the Company.

17.2 The Buyer shall be solely responsible for and shall keep the Company indemnified against any loss, liability or expenses arising directly or indirectly from use of the goods other than in accordance with their specification or the Company's operating instructions or the information and product literature referred to in condition 17.1 or (where no such specifications or instructions exist) in a manner which could not reasonably be considered to be safe and without risk.

## 18 EXPORT ONLY

18.1 If the Company concludes the contract of carriage and/or arrange for the insurance of the goods for transit the Company shall be deemed to be acting solely as the Buyer's agent and sub-sections (2) and (3) of Section 32 of the Sale of Goods Act 1979 shall not be applicable.

18.2 In the case of any goods to be exported from the United Kingdom, the Buyer is responsible for obtaining import authorisations, and the Company shall have no obligation to despatch the goods unless and until the Buyer has provided all documentation and information necessary for export and import of the goods to be effected.

## 19 SPECIFICATIONS ETC

Except as otherwise expressly agreed in writing, all specifications, patterns, drawings, unregistered designs, dies, moulds, tools and the like produced by the Company shall remain the property of the Company. The Buyer may not utilise, reproduce or communicate knowledge of such items and the Buyer shall return the same to the Company at the Company's request.

## 20 CUSTOMER RETURNABLE PACKAGES

If the contract is for the supply of goods to be delivered in the United Kingdom and the Customer and the Buyer have not otherwise agreed, customer returnable packages used for delivery of the goods shall remain the property of the Company and must be returned by the Buyer to the Company within one month of such delivery in the same condition as received by the Buyer. Customer returnable packages not so returned will be charged at replacement cost and the Buyer shall be liable to the Company accordingly.

## 21 TECHNICAL DATA

Whilst every effort has been made to ensure the accuracy of any technical data provided to the Buyer, the Company accepts no liability arising from errors or omissions therein. In particular, performance figures quoted by the Company for its products are for illustrative purposes are based upon experience, and are not warranted.

## 22 PRINCIPALS

The contract is between the Company and the Buyer and shall not be assignable without the express written consent of the Company. The Company reserves the right to sub-contract the fulfilment of any order or contract or any part thereof.

## 23 RIGHTS OF COMPANY

No forbearance or indulgence by the Company shown or granted to the Buyer in respect of the terms and conditions of sale of the goods shall affect or prejudice the rights of the Company against the Buyer.

## 24 SET OFF

The Buyer shall not be entitled to the benefit of any set-off to which the Buyer might be otherwise entitled in law or in equity. All sums payable under the contract will be payable without any deduction and the Company shall be entitled in the event of non-payment to obtain and enforce judgement thereon without any stay of execution pending the determination of any cross or counter claim by the Buyer.

## 25 LIMITATION OF LIABILITY

Where goods have been supplied to the Buyer, the Company accepts no liability for any defect in goods or for any defective products produced by the Buyer which incorporates the goods supplied by the Company ("Defective Products") and the Buyer shall indemnify the Company against any third party actions, claims, costs and proceedings, in respect of such goods or Defective Products including claims that the specification or goods or Defective Products infringe(s) any patent (whether registered or patent pending), registered design, know-how, copyright, trade mark or other industrial or intellectual property right of any third party. The Company gives no warranty as to the fitness for any particular purpose of or as to the performance of goods so supplied.

## 26 FORCE MAJEURE

"**Force Majeure Event**" means an event, circumstance or cause beyond a party's reasonable control including, acts of God, flood, drought, earthquake or other natural disaster, epidemic or pandemic (including any continuation of COVID-19), terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, nuclear, chemical or biological contamination or sonic boom, collapse of buildings, fire, explosion or accident, any labour or trade dispute, strikes, industrial action or lockouts, non-performance by suppliers or subcontractors, and/or any interruption or failure of utility service.

26.1 Neither party shall be in breach of the Contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event. In such circumstances the affected party will promptly notify the other party in writing of the Force Majeure Event. Time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

26.2 If, as a result of a Force Majeure Event, delivery of the Products is delayed for more than 90 consecutive days:
Silvertel may cancel the Contract on written notice to the Customer, and shall not be liable for any loss or damage as a result of such cancellation or rescission; or the Customer may cancel the Contract without liability to Silvertel, save that where the Products have been specially obtained for the Customer and in Silvertel's reasonable opinion there is no readily available market for them, the Customer may not cancel the Contract and shall remain liable to pay Silvertel for the full purchase price for the Products.

## 27 ANTI-BRIBERY

27.1 The Customer shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption, including the Bribery Act 2010, and shall ensure that it has in place adequate procedures to ensure compliance with the such bribery laws to prevent bribery, and shall use all reasonable endeavours to ensure that all of its personnel, all others associated with it, and all of its subcontractors involved with the Contract so comply.

27.2 The expressions 'adequate procedures' and 'associated' shall be construed in accordance with the

Bribery Act 2010 and documents published under it.

27.3 Without limitation to the above, the Customer shall not make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and will implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.

## 28 MODERN SLAVERY

28.1 The Customer shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including the Modern Slavery Act 2015.

28.2 The Customer shall not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.

28.3 The Customer represents and warrants that it has not been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

## 29 CONFIDENTIALITY

The existence of the contract its content and subject matter are confidential and shall not be disclosed by the Buyer without the prior written consent of the Company.

## 30 EFFECT OF INVALID PROVISIONS

If any provision of the contract is held to be invalid, illegal or unenforceable in any way, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

## 31 NOTICE

Any notice under the contract shall be in writing sent by first class pre-paid letter post or facsimile transmission confirmed by first class pre-paid letter post. Any notice to the Company shall be addressed to the Company at its registered office and to the Buyer at the address notified by the Buyer to the Company for that purpose or if none is so notified to the address of the Buyer last known to the Company. A notice given as aforesaid by post shall be deemed served forty eight hours after posting and by facsimile at the time of transmission thereof.

## 32 ARBITRATION

If any dispute or difference shall arise between the parties as to the meaning of this Contract or any matter or thing arising out of or connected with this Contract then it shall be referred to the determination of an arbitrator to be appointed by agreement of the parties or, in default of agreement within 21 days of the service upon one party of a written request to concur on such appointment by the President for the time being of the Chartered Institute of Arbitrators.

## 33 HEADINGS

Headings are inserted for convenience only and shall not affect the meaning or construction of these conditions.

## 34 PROPER LAW

These conditions and the contract shall be subject to and construed in accordance with English Law and the parties hereby agree to accept the exclusive jurisdiction of the English Courts in all matters connected therewith or relating thereto.