

1. Interpretation

“Business Day” means any week day from Monday to Friday inclusive other than a public holiday; “Normal Working Hours” means 9.00am to 5.00pm;

“Contract” means this contract between the Company and the Customer for the supply of Goods;

“Contract Price” means the monetary consideration stated in the Contract for the sale of the Goods to the Customer;

“Goods” means any Goods forming the subject of this Contract including parts and components of or materials incorporated in them; and

“Schedule” means the schedule annexed to this Contract.

2. Existence of Contract

2.1 No Contract shall come into existence until either the Customer’s order (however given) is accepted by the earliest of:-

- a) the Company’s written acceptance.
- b) the signing of this Contract by the parties.
- c) delivery of the Goods,
- d) the issuing of the Company’s invoice; or
- e) the payment of the Goods by the Customer.

2.2 These conditions and the Schedule shall be incorporated in the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer.

2.3 The Contract may be varied by the Company from time to time but, with respect to the Goods ordered by the Customer, the conditions stated at the time of the ordering of the Goods shall apply.

3. Price and Payment

3.1 The quoted price of the Goods (whether verbally or in writing) shall be exclusive of VAT. VAT is chargeable on the price of the Goods.

3.2 The Company shall supply the Goods detailed in the Schedule and the Customer shall pay the Company the Contract Price as stated on the Schedule for the Goods on the terms and conditions

contained in this Contract.

3.3 Subject to any special terms agreed or as otherwise stated in the Schedule, the Customer shall pay the Company's Contract Price plus any charges for installation of the Goods, carriage and insurance as set out in the Company's invoice and any additional sums which are agreed between the Company and the Customer for the supply of the Goods or which, in the Company's sole discretion, fall due.

3.4 The Company shall be entitled to invoice the Customer following the confirmation of the Customer's order or at other times as agreed between the Company and the Customer.

3.5 The Contract Price and any applicable charges for the installation of the Goods, carriage and insurance together with any additional sums payable shall be paid by the Customer (together with any applicable VAT and without any set-off or other deduction) within thirty days of the Company's invoice.

3.6 If payment is not made by the due date, the Company shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgement) at the rate of 5% above the base rate from time to time of the Royal Bank of Scotland plc from the due date until the outstanding amount is paid in full.

4. Delivery and Title

4.1 Unless the Customer informs the Company that it wishes to collect the Goods, delivery of the Goods shall be to the address provided to the Company by the Customer at the time of ordering the Goods and the Customer shall make all the necessary arrangements to take delivery of the Goods whenever they are tendered for delivery. Immediately after delivery of the Goods to the Customer, risk in the Goods will pass to the Customer. In the unlikely event that the Customer has not received all the Goods that do not require installation by the Company within five Business Days of the date of delivery (or where the Customer has requested a delayed despatch, within five Business Days of the requested despatch date), the Customer must notify the Company immediately.

4.2 The Company shall not be liable for any loss, costs, damages or expenses incurred by the Customer or any third party arising directly or indirectly out of any failure to meet any estimated delivery date.

4.3 The Customer is required to inspect the Goods on receipt and notify the Company in writing of any defects or complaints within 3 days of receipt of the Goods. Should the Customer fail to give such notice within the 3 days the Customer shall be deemed to have accepted that the Goods are in all respects in accordance with the Contract and the Customer shall indemnify the Company against any damages the Company may be required to pay to any party whether by court order settlement or otherwise arising from a defect in any of the Goods.

5. Property in the Goods

5.1 Notwithstanding the passing of risk in accordance with condition 4.1, title in the Goods shall remain the sole and absolute property of the Company and title to and legal ownership of the Goods shall not pass to the Customer until the amount due for the Goods (including interest and costs) has

been paid in full.

5.2 The Company may at any time before title of the Goods passes to the Customer and without any liability to the Customer:-

5.2.1 repossess and dismantle and use or sell all or any of the Goods and by doing so terminate the Customer's right to use, sell or otherwise deal in them; and

5.2.2 for the purpose of condition 5.2.1 and the purpose of inspecting the Goods, enter any premises of or occupied by the Customer.

5.3 Where hardware is supplied at a subsidised cost or free of charge (FOC) as part of, or conditional upon, a minimum contract term, such subsidy or FOC provision is fully dependent on the Customer fulfilling the contract for the agreed term. In the event that the contract is terminated early, cancelled, or otherwise defaulted by the Customer for any reason, the Customer shall be liable to pay the full, non-subsidised retail value of the hardware. This amount shall become immediately due and payable upon default or termination.

6. Availability

6.1 While the Company shall endeavour to hold sufficient stock to meet all orders, if the Company has insufficient stock to supply or deliver the Goods ordered and paid for by the Customer, the Company may, at their discretion, notify the Customer of a revised delivery date for the Goods or supply or deliver a substituted product or refund the price paid for such Goods as soon as possible and in any case within 30 days or, in the case of an account Customer, the Company may, in their absolute discretion, as soon as possible raise a credit to offset the amount invoiced to the account Customer.

6.2 The Company reserves the right to withdraw for sale, amend the price and specification of any Goods displayed on the Company's premises, its website, its brochures and/ or refuse to supply Goods to any party at its sole discretion without incurring any liability to the Customer or any other third party.

7. Liability

7.1 If the Customer has notified the Company of a problem with the Goods, the Company will (at the Customer's option) either make good any shortage or non-delivery; replace or repair any Goods that are damaged or defective upon delivery; or refund to the Customer the amount paid by the Customer for the Goods in question. The Company will not be liable to the Customer for any loss of profits, administrative inconvenience, disappointment, indirect or consequential loss or damage arising out of any problem in relation to the Goods and the Company shall have no liability to pay any money to the Customer by way of compensation other than any refund the Company may make under these conditions. This does not affect the Customer's statutory rights as a consumer, nor is it intended to exclude the Company's liability to the Customer for fraudulent misrepresentation or for death or personal injury resulting from the Company's negligence.

7.2 The Company shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any information, data or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer.

7.3 The Company shall have no liability of whatever kind to the Customer for any defects to the Goods resulting from wear and tear, accident, improper use or use by the Customer except in accordance with the instructions or advice of the Company and/or the manufacturer of the Goods or

for any Goods which have been adjusted, modified or repaired except by the Company and for any physical damage to the Goods caused by impact, abrasion or cleaning of the Goods with a non proprietary chemical.

7.4 The Company shall have no liability to the Customer for any defects or loss, damage, costs, expenses or other claims for compensation arising from any improper or inappropriate use of the Goods by the Customer or the Customer's failure to follow any instructions for use of the Goods on or accompanying the Goods.

7.5 The Company will not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to, acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the Company shall be entitled to a reasonable extension of its obligations.

7.6 The Company will not be liable for actions of a third party or to any third party. For the avoidance of doubt, where the Company supplies the Goods on behalf of a third party or manufactured by a third party, the Company shall have no liability whatsoever in relation the Goods but will endeavour to liaise with such third party to resolve any dispute.

7.7 The total liability of the Company's in respect of the provision of Goods shall not exceed the Contract Price except where such limitation is not permitted by law.

8. Termination

8.1 The Company may terminate this agreement forthwith if the Customer fails to pay any sums due to the Company as they fall due.

8.2 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these conditions and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so, or if the other goes into liquidation, or (in the case of an individual or firm) becomes bankrupt, makes a voluntary arrangement with his creditors or has a receiver or administrator appointed.

8.3 Either DF Communications or the Client may terminate the Contract after the initial term of no less than 12 months, by giving 30 days' notice in writing to the other (including weekends and bank holidays).

9. General

9.1 The Contract and the Schedule constitute the entire agreement between the parties, supersede any previous agreement or understanding and may be varied by the Company at any time. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

9.2 Any notice required or permitted to be given by either party shall be in writing addressed to the other party at the principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. The Company's current address for the service of notices is Neo House, Riverside Drive, Aberdeen, AB11 7LH.

9.3 Any notice to be served by the Company on the Customer shall be deemed to have been duly served if sent by first class post in a prepaid envelope to the Customer at his last known address. Any notice served by first class post shall be deemed to have been served five days after posting.

9.4 Any notice to be served on the Company shall be served by sending the same first class in a prepaid envelope to the Company's place of business as stated in condition 9.2. Any notice served by first class post shall only be deemed served once the Customer has received an acknowledgement from the Company. The Company's acceptance of such notice will also be submitted in writing, stating the day, month and year of termination.

9.5 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of any condition of this Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other condition.

9.6 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.

9.7 Any dispute arising under or in connection with these conditions or the supply of the Goods shall be referred to arbitration by a single arbiter appointed by agreement or (in default) nominated on the application of the Company.

9.8 Expressions in the singular include the plural and the masculine include the feminine and vice versa.

9.9 These conditions shall be deemed to have been made in Scotland and the construction validity and performance of them shall be governed in all respects by Scottish Law