

BLAZEPONT STANDARD TERMS AND CONDITIONS OF SALE

These terms & conditions supersede all previous issues and apply to all orders and quotations accepted on or after 15th August 2009

1. DEFINITIONS

1.1 The definitions:-

"Company" means Blazepoint Ltd., its holding company or any subsidiary (as defined in section 736 Companies Act 1985) of its ultimate holding company.

"Customer" means any person, firm or company receiving a quotation from and/or placing an order with the Company.

"Contract" means the contract for the supply of Goods & services (and if applicable Applications Support) by the Company to the Customer incorporating; the quotation; these conditions; the Software User Licence; any Hardware Maintenance Contract; Software Maintenance Contract and any other document or documents expressly incorporated.

"Goods" means all and every equipment or part thereof and/or services supplied by the Company to the Customer under a Contract.

"Connected Equipment" means equipment not supplied by the Company but connected (directly or indirectly) to or used in conjunction with the Goods.

"Consumable Supplies" means any consumable supplies to be used on or in conjunction with the Goods.

"Applications Support" means any works and services provided by the Company, its employees or agents in conjunction with the supply of Goods to the Customer.

"Additional Items" means the following (where incurred):

- the cost of packaging;
 - any taxes, duties or other charges levied by any Governmental or other authority in respect of or by reason of the sale, delivery, export or import of the Goods or the provision of Application Support excluding however, taxes assessed on profits or gains
 - importation costs (including costs of carriage, insurance, handling, storage prior to or during or after transit, demurrage, landing charges and port or airport dues)
 - the cost of Consumable Supplies
 - the charge for installation and commissioning
 - the charge for training personnel
 - the charge for any modification or alteration required by British Telecom or any other body whose transmission facilities the Goods are linked
 - the charge for the supply and/or installation of Software.
- "Software"** means all computer programmes including firmware supplied by the Company.

2. GENERAL

2.1 All quotations, offers and tenders are made and all orders for the sale of Goods by the Company are accepted subject to these conditions. All other terms, representations, conditions or warranties are excluded from any Contract between the Company and the Customer unless expressly stated to the contrary.

2.2 Quotations may be withdrawn by the Company by written or oral notice to the Customer at any time prior to the Customer's acceptance. Acceptance will only be effective when it is made on the Company's order acceptance form or has commenced work upon, or despatched or otherwise appropriated items for performance of the order.

2.3 Orders are accepted subject to the credit status of the Customer being satisfactory to the Company, which may cancel the Contract if its credit enquiries at any time prove unsatisfactory to it.

2.4 Acceptance of a quotation must be accompanied by all information necessary for the Company to proceed with the Contract. If work is delayed or additional costs are incurred due to lack of such information or changes in information the Company may amend the contract price to cover the additional costs and/or extend the delivery date.

2.5 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Managing Director of the Company in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

2.6 In the event of any inconsistency between these Conditions and any other document forming part of the Contract, these conditions shall (subject to Clause 11.3) take precedence unless agreed in writing by the Managing Director of the Company.

2.7 In the event of any inconsistency between these Conditions and the Customer's Terms & Conditions these conditions shall take precedence unless agreed in writing by the Managing Director of the Company.

2.8 The Customer shall be responsible for complying with all legislation or regulations (of the United Kingdom or any other country) governing the export and import of the Goods into the country of destination (and any other country through which the Goods pass in transit) and for the payment of any duties thereon. The Customer shall fully indemnify the Company against any fines, penalties, costs, claims, damages, losses and expenses suffered by the Company as a result of the Customer failing to comply with this Clause 2.8.

3. PRICE AND PAYMENT TERMS

3.1 Unless otherwise agreed in writing all prices are quoted strictly net Ex-Works – Chalgrove, Oxford (incoterms apply) and are exclusive of any and all taxes, duties, levies, value added tax and any and all other taxes, levies, import duties and charges of a similar nature, and all carriage, insurance, packing, freight and installation charges. Any Additional Items shall be added to the price. Where such price is based upon a currency other than pounds sterling any fluctuations in the exchange rate of such currency against pounds sterling between the date of order and the date of the Company's invoice which adversely affect the Company shall be passed on to the Customer who shall pay the same in accordance with clause 3.2 hereof.

3.2 Payment in full (without any deduction by way of set-off or counterclaim or otherwise from or against the same except as required by law and regardless of any delays in delivery or performance or any other circumstances that may be necessary to the Goods) for the Goods and Applications Support shall be due and payable within thirty days of the date of the invoice notwithstanding that delivery may not have taken place or property in the Goods has not passed to the Customer. Payment is deemed to be made when the Company's bank account is credited with the amount due. The Company may invoice and apply for payment of each shipment separately.

3.3 The time for payment shall be of the essence of the Contract so that failure to perform shall entitle the Company at its option to treat the Contract as repudiated by the Customer or to delay shipment or otherwise withhold performance (in which event the Company's time for performance shall be extended accordingly). In the case of delivery by instalments, failure to perform in respect of one shipment shall entitle the Company at its option to cancel or delay or withhold performance in the shipment or other shipments or to treat the whole Contract as repudiated by the Customer.

3.4 If the Customer shall default in payment the Company shall be entitled to suspend any further deliveries and to charge an interest on any amount outstanding at the rate of 4% per annum above the base rate of Fortis Bank, such interest being charged as a separate, continuing obligation not merging with any judgement.

3.5 If the Customer becomes bankrupt, enters into liquidation, has an administration order made in respect of it or suffers a payment of a receiver to all or any of its assets, the Customer shall immediately pay to the Company all monies payable by the Customer under the Contract or any other agreement with the Company (whether or not then otherwise due for payment) and without prejudice to any other remedy.

3.6 The Customer shall pay to the Company by way of full indemnity all costs of any nature incurred by the Company in the breach of the Contract including, but not limited to, all legal costs on a full indemnity basis.

3.7 No disputes arising under the Contract nor delays, otherwise than due to default by the Company, shall interfere with prompt payment in full by the Customer.

3.8 In the event of variations or suspensions of work due to the Customer's instructions, or lack of instructions, the Company by written notice to the Customer may increase the price by such amount as it reasonably considers will fairly compensate for additional costs thereby incurred by it. The Company, by notice to the Customer at any time before delivery, may increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond its control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications of the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.

4. DELIVERY

4.1 The Customer shall give a minimum of 30 days notification of the site to which delivery is required and the delivery date which shall be agreed in writing by the Company.

4.2 Delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises at any time after the Company has notified the Customer that they are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering them to that place. Whilst every effort will be made to adhere to any agreed shipment dates, such dates are not guaranteed and the Company shall not be liable for any expense, loss or damage arising directly or indirectly from any delay in shipments or delivery however caused. Late delivery shall not be grounds for rejecting goods or terminating the Contract.

4.3 If the Customer, having been notified the Goods are ready for despatch or (as the case may be) collection, fails to accept delivery or make collection, or if the delivery programme is varied at the Customer's request or if no shipping instructions are provided by the Customer, the Company may invoice the Customer for those Goods (which the Customer shall pay as though they had been despatched) and may charge the Customer for storage and insurance and all other expenses incurred by it in respect of those Goods and risk in those Goods shall be treated as having passed to the Customer from the date of the Company's notification.

4.4 Where the Contract provides for delivery by instalments, delays in delivery or the non-delivery of any instalment shall not entitle the Customer to terminate the Contract or reject any other instalment. Each delivery made by the Company shall be deemed to be a separate contract.

4.5 Where delivery of the Goods (or any part of it) depends upon the supply by the Customer to the Company of any component or Connected Equipment and that component or Connected Equipment (or any part of it) has not been received by the Company at least 28 working days before the agreed date of delivery of the Goods the Company shall be entitled to demand payment for the Goods in full in accordance with clause 3.2 notwithstanding that the Goods has

not been delivered to the Customer. The Customer shall pay the amount due in full within 30 days of such demand. In this event the Company shall deliver the Goods to the Customer as soon as reasonably possible after the Company has received all of the components and/or Connected Equipment.

4.6 The Company is under no obligation to accept requests by the Customer for postponement of delivery of the Goods. If the Company accepts such a postponement then the Customer shall, without prejudice to any right or remedy available to the Company, pay all costs and expenses incurred as a result by the Company.

4.7 The Company reserves the right to deliver the Goods in more than one shipment.

4.8 If the Customer requests delivery to a third party the Customer accepts all risks once the Goods have been despatched to the third party.

5. TITLE

5.1 Title to the Goods shall only pass to the Customer upon the Customer having paid to the Company all sums (including any default interest) due from it to the Company under the Contract and all other contracts between the Customer and the Company.

5.2 The Company may recover Goods in respect of which title has not passed to the Customer at any time and the Customer irrevocably licenses the Company, its officers, employees and agents to enter upon the premises of the Customer, with or without vehicles, for the purpose either of satisfying itself that condition 5.3 below is being complied with by the Customer or of recovering any Goods in respect of which title has not passed to the Customer, to include, without prejudice to the generality of the foregoing, the dismantling of any item into which such Goods have been incorporated and the Customer shall be responsible for all the Company's costs and expenses in connection with so doing.

5.3 Until title to the Goods has passed to the Customer under these conditions it shall possess the Goods as fiduciary agent and bailee of the Company. The Customer shall store the Goods separately from other goods and shall ensure that the Goods are clearly identifiable as belonging to the Company. During such time as the Customer possesses the Goods with the Company's consent, the Customer may in the normal course of its business sell or hire the Goods as principal but without committing the Company to any liability to the person dealing with the Goods.

5.4 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 the property of the Company, but if the Customer does so all monies owing by the Customer to Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

5.5 The Company shall be the legal owner of any intellectual property created by the Company as a result of configurations to the Goods requested by the Customer.

6. PERFORMANCE AND FORCE MAJEURE

6.1 The Company undertakes to perform its obligations and deliver within the time specified but such times are estimates only. The Company shall not be liable for late performance or delivery and delays shall not entitle the Customer to rescind the Contract.

6.2 Without prejudice to the generality of Clause 6.1, the Company shall have no liability for any failure to perform any of its obligations under the Contract if caused directly or indirectly by war, hostilities, riots, civil commotion, strike, lock-out, sit-in, trade dispute, act of God, flood, breakdown or unavailability or accident to plant or machinery, shortage of any material, inability to obtain sufficient labour or sufficient skilled labour, electricity or other supply, or by any law, rule, regulation order or other action of any public authority, transportation delays or the shall or delay in granting any necessary or important licence, the Company shall be excused, discharged and released without penalty from performance of the Contract to the extent that such performance is so limited, delayed or prevented. If such cause or causes prevent delivery for six months or more beyond due date for delivery, either party may cancel the Contract on written notice.

6.3 The Company's ability to perform its obligations hereunder is limited, delayed or prevented in whole or in part by any cause not reasonably within its control and if any part of the Goods have been delivered, the Customer shall pay to the Company a proportion of the Price appropriate to the Goods which have been delivered and the amount (if any) of the installation work carried out.

7. RISK, INSURANCE AND CARRIAGE

7.1 Except in so far as the Company may have agreed otherwise in writing:-

7.1.1 where Goods are to be delivered within the United Kingdom up to the time when it arrives at the Customer's premises the risk of any loss, damage to or deterioration of the Goods shall remain with the Company, subject to limits provided within the Company's applicable insurance policy from time to time.

7.1.2 where Goods are to be delivered outside the United Kingdom, it will be sold for delivery in accordance with the applicable incoterms as set out in the heading as specified in the Contract (as defined by the English text of the said Incoterms 2000).

7.2 If the Customer requests delivery to a third party the Customer accepts all risks once the Goods have been despatched to the third party.

7.3 The Company shall not be obliged to give notice required by Section 32(3) of the Sale of Goods Act 1979 in respect of any intended despatch.

7.4 Any delivery and insurance costs incurred by the Company in this clause 7 may be recharged to the Customer.

8. TERMS AND REPRESENTATIONS

THESE CLAUSES DEFINE CUSTOMER'S RIGHTS IN RESPECT OF ANY LOSS OR DAMAGE CAUSED BY THE GOODS OR THE APPLICATIONS SUPPORT - CUSTOMERS ARE ADVISED TO READ THESE PROVISIONS CAREFULLY.

8.1 The Customers are experts in their own specialised fields and utilise the Goods for a number of specific applications specific to their business. To the best of the Company's knowledge, the Goods are of the highest quality but the Goods are supplied on the understanding that the Customer will use its own specialised skill and judgment in assessing the fitness of the Goods and the Application Support provided by the Company for the intended uses and the level of performance which will be derived there from.

8.2 ACCORDINGLY THE CUSTOMER IS ADVISED TO CHECK THAT IT IS COVERED BY INSURANCE AGAINST ANY LOSS OR DAMAGE IT MAY SUSTAIN.

8.3 The Customer agrees to repair or replace all equipment on the then current price list, found to be defective within a period of 12 months following delivery to the Customer except where such Goods are subject to another manufacturer's warranty (when such warranty only shall apply) or the Customer has specified a different period of warranty in the formal written quotation, provided that each of the following are satisfied:

(a) notification in writing of any defect being given to the Company immediately upon it becoming apparent;

(b) the Goods having been operated under normal operating conditions using suitable programmes, materials, power supply and lubricants (where necessary). Use of Third Party consumables may invalidate the warranty;(c) the part being shown to have been defective at the time of despatch to the Company's premises and due to faulty workmanship by or defective materials incorporated by the Company;

(d) the Goods being returned to the Company's premises, in suitable packaging, at the Customer's expense, having obtained RMA returns authorisation reference from the Company;

(e) any defective parts replaced being the property of the Company.

(f) the Company accepts no liability for defect or damage caused by reports or replacements made other than by the Company or for any defect or damage attributable to the Customer in any respect.

8.4 Subject to Clause 8.2 any defect in the Goods or loss, damage, nuisance or interference (whenever or consequent) arising from or caused by or to the Goods, the Connected Equipment or the Applications Support shall from the date of despatch be the responsibility of the Customer and the Company excludes all liability for the same.

8.5 It is the responsibility of the Customer to satisfy itself as to the workability, reliability, accuracy and suitability of the Goods. No condition, warranty or other term, express or implied (by statute or otherwise) is given by the Company that the Goods, the Connected Equipment (whether or not the Company or its employees or agents have recommended its use) or the Applications Support, either separately or in conjunction, will enable the Customer to attain any particular performance or result or will be suitable for any particular purpose or use under specific conditions or will provide any particular capacity.

8.6 The Company's liability whether in respect of one claim or the aggregate of various claims (other than claims for death or personal injury to the extent that the same is caused by a failure of the Company to take reasonable care), shall not exceed the value of the Contract subject to a maximum aggregate liability of FIVE MILLION POUNDS.

8.7 Further, under no circumstances whatever shall the Company be liable for losses special to the particular circumstances of the Customer, consequential losses, indirect losses, work required in connection with the removal of defective Goods and the installation of repaired or substituted Goods, loss of profits, damage to property or wasted expenditure.

9. WARRANTY

9.1 Standard warranty is defined in clause 8.2

9.2 Enhanced warranties will be subject to the terms and conditions of the enhanced warranty agreement and if there is any conflict the terms and conditions of the enhanced warranty agreement shall prevail.

9.3 If the Company at the time of quotation recommends operator training and the training is not undertaken by the Customer all warranties are invalidated.

9.4 Where tamperproof seals are applied to the Goods any damage to the seal(s) renders the warranty invalid.

9.5 Where batteries and/or consumables are supplied either are part of the Goods or as accessories they are warranted for 3 months following delivery to the Customer and failure to observe the battery management routines will invalidate the warranty.

9.6 Any Goods returned to the Company will not be repaired under warranty and virus damage is not covered under the warranty.

10. CONFIDENTIALITY AND COPYRIGHT

10.1 All drawings, designs, documents (including user manuals), confidential records, computer software and other information supplied by the Company, whether produced by itself or a third party, are supplied on the express understanding that copyright is reserved to the Company (or the third party) and that the Customer will not, without the written consent of the Company, give away, loan,

exhibit or sell any drawings, documents, records, software or other information or extracts from them or copies of them or use them in any way except in connection with the Goods in respect of which they are issued. The Customer will not use any such material except as necessary in connection with the installation, test, operation and maintenance of the Goods.

10.2 All claims for alleged infringement of patents, trade marks, registered designs, design right or copyright received by the Customer relating to the Goods must be notified immediately to the Company.

11. APPLICATIONS SOFTWARE AND/OR RELATED SERVICES

11.1 It shall be a condition of any contract entered into by the Company where the Goods includes Software/Firmware that all warranties will be invalidated if the Customer or the Customer's employees or agents attempt to tamper with modify or change the supplied software and/or firmware.

11.2 Where the Customer contracts for the Company to supply third party Software, then the Customer shall abide by the licence agreements issued by the third party software vendor. The Company accepts no liability whatsoever relating to the suitability, fitness for purpose, performance and accuracy of third party Software.

11.3 These Conditions shall (save where inconsistent with Clause 11.1) apply to the supply of Software provided that in the event of any inconsistency between these Conditions as they relate to the supply of Software and the provisions of the User Licence or Conditions of Sale, the User Licence or Conditions of Sale shall prevail.

12. TERMINATION

12.1 The Company shall be entitled to terminate all or any of its Contracts with the Customer forthwith and recover all losses or damage resulting to the Company (including but without limitation to loss of profit or other consequential loss) if:

12.1.1 the Customer shall become bankrupt or shall be deemed unable to pay its debts for the purposes of Section 123 of the Insolvency Act 1986 or shall compound with its creditors or if a resolution shall be passed or proceedings shall be commenced for the administration or liquidation of the Customer (other than for a voluntary solvent winding up for the purposes of all reconstruction or amalgamation), or if a receiver or manager shall be appointed over all or any part of its assets or undertaking; or

12.1.2 the Customer fails to make any payment owed to the Company on the due date; or

12.1.3 the Customer is in breach of any contract with the Company (including the Contract) and fails to remedy the same within twenty-one days of notice so to do or immediately if the breach shall be irretrievable.

12.2 The Customer shall not be entitled to terminate any Contract with the Company, without the Company's written consent. Should this be given, where an order has been placed on the Company and the delivery subsequently amended or cancelled by the Customer, the Company reserves the right to charge the Customer any costs incurred by the Company as a result, including but not limited to costs for Customer-specific parts, storage, reworking. The Customer shall pay the amount due in full within 30 days of such demand.

13. TRAINING

13.1 Where the Customer contracts for the Company to carry out training for the correct use of the Goods payment in full for the training must be made to the Company at least 4 weeks prior to the date of the training. The Company reserves the right to cancel any training where such payment is not made.

13.2 The Company reserves the right at its absolute discretion to alter the date and venue of the training or to cancel any training. Should the Company cancel any training the Company shall refund any payments made for training but shall not be liable for any losses, costs or expenses (including consequential loss and loss of profit) arising from such cancellation.

13.3 The Company does not warrant that the Customer's personnel will be able to operate the Goods and/or the premises in accordance with the training condition, or will be able to attain any particular performance or result from the Goods after receiving the training.

13.4 In the event of the Customer cancelling the training the Company reserves the right to refuse to refund payment for training received where the Company does not receive notice of cancellation in writing at least 3 weeks prior to the date of training.

14. ATTENDANCE ON SITE

If the Company attends the Customer's premises or the premises of any third party for any reason connected with the Contract, the Customer shall indemnify the Company in respect of all claims made or proceedings taken against the Company by any person, firm or company, including employees of the Company, or of the Customer or of any contractor employed by the Customer, whether in respect of death, personal injury or damage to property arising directly or indirectly from the attendance at such premises.

15. CONSUMER PROTECTION ACT 1987 ("THE ACT")

15.1 In circumstances in which the Company supplies Goods to the Customer for incorporation with, or use ancillary to, any composite or other products to be produced, manufactured, processed or supplied by the Customer or a third party then:-

15.1.1 the Customer shall immediately on demand produce for inspection by the Company copies of all written instructions, information and warnings to be supplied by the Customer in relation to the composite or other products, provided that such inspection or right to inspect shall not of itself constitute acceptance or approval on the part of the Company of such instructions, information or warnings; and

15.1.2 the Customer shall indemnify, reimburse and compensate the Company for all losses and damages (including costs, expenses and charges for legal actions in which the Company may be involved) which the Company may incur, or have to bear, if any claim or claims shall be made against the Company, pursuant to the Act or otherwise, relating to the composite or other products in circumstances in which the goods supplied by the Company are either (i) not the defective part of the composite or other product, or (ii) are only rendered the defective part or became a defective product by reason of acts or omissions of the Customer or a third party (including without limitation the supply of defective free issue materials), or (iii) are only rendered in accordance with the instructions supplied with the Goods and shall provide all relevant personal and necessary training in respect of the Goods.

15.2 For the purposes of Condition 15 only, the word "defective" shall be interpreted in accordance with the definition of "defect" contained in Part 1 of the Act

15.3 The Customer acknowledges that it is under a duty to pass on to its customers all instructions, information and warnings supplied to it by the Company with the Goods. Furthermore, the Customer shall use all reasonable endeavours to ensure that the Goods are used in accordance with the instructions supplied with the Goods and shall provide all relevant personal and necessary training in respect of the Goods.

15.4 The Customer shall ensure that all warnings displayed on the Goods or their packaging at the time of delivery shall not at any time be removed, defaced or otherwise obscured and further the Customer shall contractually pass such obligations to any third party recipient of the Goods.

15.5 The Customer shall indemnify the Company against any loss suffered as a result of the Customer being in breach of this clause 15 or any part thereof.

16. VARIATIONS

No variation shall be binding on the Company unless expressly agreed in writing by the Managing Director of the Company

17. ASSIGNMENT

The Customer shall not be entitled to assign the benefit or burden of the Contract or of any interest in it without the prior written consent of the Company. The operating software and manuals shall not be assigned, copied, sub-licensed or transferred by the Customer. The Company shall be entitled to subcontract the whole or part of its obligations under the Contract and to assign its interest in the Contract.

18. WAIVER

No relaxation or delay by the Company in enforcing any of its rights shall restrict its rights nor shall any waiver by the Company of any breach operate as a waiver of any subsequent or continuing breach.

19. SEVERABILITY

If these conditions shall be or become void in whole or in part, the other provisions shall remain valid and enforceable.

20. NOTICES

Any notice required under the Contract shall be deemed served if sent by registered or recorded delivery post addressed to the party for whom it is intended at such party's registered or main office or last known address marked for the attention of the Managing Director and shall be deemed to have been served 48 hours after the date of posting.

21. EUROPEAN MONETARY UNION

21.1 Where the occurrence or non-occurrence of an event associated with the European Monetary Union will not of itself discharge the Contract, or entitle one party unilaterally to vary or terminate it.

22. THIRD PARTY RIGHT

22.1 Where the Contract is subject to the Contract ("a third party") shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 ("the Act") to enforce any of these conditions. Any right or remedy of a third party which exists or is available apart from the Act is not affected.

23. LEGAL CONSTRUCTION AND LAW

23.1 The contract shall be governed and interpreted according to the laws of England and in the case of proceedings issued against the Company shall be subject to the jurisdiction of the English Courts only.