



# SPC International Conditions of Supply

## 1. Interpretation

1.1 In these conditions, unless the context otherwise requires:

- 1.1.1 "Buyer" means the person who accepts an offer for the supply by SPC of the Equipment, Software and/or Services or whose order for the Equipment, Software and/or Services has been accepted by SPC.
- 1.1.2 "Conditions" means the standard SPC International Conditions of Sale set out in this document and (unless the context requires otherwise) including any special terms and conditions agreed in Writing between the Buyer and SPC as contemplated by clause 2.3.
- 1.1.3 "Contract" means the contract for the purchase and sale of the Equipment, Software and/or Services, including, subject to clause 2.1, any Written Confirmation.
- 1.1.4 "Contract Price" has the meaning given to it in clause 4.1.
- 1.1.5 "Equipment" means the new and/or used hardware which SPC is to sell in accordance with these Conditions (as relevant), but, for the avoidance of doubt, does not include any hardware owned by the Buyer which is refurbished by SPC (such work shall fall under the definition of Services).
- 1.1.6 "Force Majeure Event" means an event beyond the reasonable control of a party including acts, defaults or omissions of suppliers, or subcontractors, a strike, lock out or other form of industrial action, outbreak of hostilities, riot, civil disturbance or acts of terrorism; fire, explosion or flood; or theft and malicious damage.
- 1.1.7 "Services" means the services which SPC is to supply in accordance with these Conditions (as relevant).
- 1.1.8 "Software" means the software which SPC is to supply in accordance with these Conditions (as relevant).
- 1.1.9 "SPC" means SPC International Ltd.
- 1.1.10 "Written Confirmation" means SPC's Written acceptance of the Buyer's Written order.
- 1.1.11 any references to the "Equipment, Software, and/or Services" or comparable expressions mean any or all of these (as relevant).
- 1.1.12 any references to "Writing" or "Written" includes any methods of representing words in a legible form including facsimile and email.
- 1.1.13 words in the singular include the plural and vice versa and words in one gender include any other gender.
- 1.1.14 the words "including" and "in particular" (or similar) shall not limit the generality of any preceding words.

## 2. Basis of the sale

- 2.1 SPC shall sell and the Buyer shall purchase the Equipment and the Services, and SPC shall provide and the Buyer shall take a licence to use the Software, in accordance with any Written order of the Buyer which is accepted in Writing by SPC subject only to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Buyer.



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- 2.2 Quotations issued by SPC to the Buyer may be withdrawn or varied at any time and unless otherwise specified shall be deemed automatically withdrawn after 30 days. No binding contract shall in any event arise until SPC has given Written Confirmation. Quotations are based upon the information supplied by the Buyer. Where any subsequent information is submitted which would involve a material alteration in specification or method of manufacture of the Goods, SPC reserves the right to amend the quotation to cover any reasonable additional costs arising from such alteration.
- 2.3 No variation to these Conditions shall be binding unless agreed in Writing between and signed by the parties' authorised representatives.
- 2.4 SPC's employees or agents are not authorised to make any representations concerning the Equipment, Software and/or Services unless confirmed by SPC in Writing.
- 2.5 For the avoidance of doubt, any Written order issued by the Buyer and accepted by SPC in Writing shall be deemed to incorporate these Conditions as if they were set out in full in that document.
3. Orders and specifications
- 3.1 The Buyer shall be responsible to SPC for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving SPC any necessary information relating to the Equipment, Software and/or Services within a sufficient time to enable SPC to perform the Contract in accordance with its terms.
- 3.2 The quantity, quality and description of, and/or any specification for, the Equipment, Software and Services shall be those set out in SPC's Written Confirmation.
- 3.3 No order which has been accepted by SPC may be cancelled by the Buyer except with SPC's prior agreement in Writing.
4. Price and terms of payment
- 4.1 The price of the Equipment, Software and/or Services shall be the price stated in SPC's Written Confirmation, where no price has been quoted, the price listed in the relevant SPC published price list current at the date of acceptance of the order ("Contract Price").
- 4.2 SPC may, by giving notice to the Buyer at any time before delivery, increase the Contract Price to reflect (i) any change to specifications or delivery dates requested by the Buyer, or (ii) any delay caused by the Buyer's instructions or failure to give accurate information or instructions.
- 4.3 Subject to any special terms agreed in Writing between the parties, SPC may invoice the Buyer for the Contract Price on or at any time after delivery (as applicable) of the Equipment or Software or performance of the Services. Where any Equipment or Software is to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Equipment or Software, or allow performance of the Services, (as applicable) SPC may invoice the Buyer for the Contract Price at any time after SPC has (i) notified the Buyer that the Equipment or Software is ready for collection, (ii) tendered delivery of the Equipment or Software, or (iii) attempted performance of the Services (as the case may be).



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- 4.4 The Buyer shall pay SPC's invoices in accordance with the terms offered in the quotation. The time of payment shall be of the essence of the Contract. All payments shall be made in full and without deduction in respect of any set-off or counterclaim.
- 4.5 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to SPC, SPC shall be entitled to:
- 4.5.1 cancel the Contract or suspend further deliveries to the Buyer; and
- 4.5.2 charge the Buyer interest on the amount unpaid at the rate of 8% per annum above National Westminster Bank's base lending rate as at the date of the invoice for the Equipment in question, until payment in full is made. Such interest to accrue on a day to day basis and compounded monthly.
5. Delivery
- 5.1 Delivery, collection or performance (as applicable) of the Equipment, Software and Services, shall be in accordance with such details contained within SPC's Written Confirmation.
- 5.2 SPC shall endeavour to deliver the Equipment and/or Software and perform the Services by the date quoted for delivery/performance but such date is not guaranteed nor shall the time for delivery/performance be of the essence unless previously agreed by SPC in Writing. The date for delivery/performance shall be extended by a reasonable period if there is any delay caused by a Force Majeure Event or by the Buyer or a third party acting on its behalf. SPC may deliver the Equipment and/or Software and perform the Services before the delivery or performance date subject to mutual agreement.
- 5.3 If SPC fails to deliver the Equipment or Software or perform the Services for any reason other than a Force Majeure Event or due to the fault of the Buyer or a third party acting on its behalf, SPC's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods or services to replace the Equipment, Software or Services not supplied (not to exceed the lesser of a sum equal to 125 per cent of the price of the Equipment, Software and/or Services or £50,000)
- 5.4 If the Buyer fails to take delivery of the Equipment and/or Software or fails to give SPC adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of SPC's fault) then without prejudice to any other right or remedy available to the SPC, SPC may:
- 5.4.1 store the Equipment and/or Software until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 5.4.2 sell the Equipment and/or Software at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Contract Price or charge the Buyer for any shortfall below the Contract Price.
6. Risk and property
- 6.1 Risk of damage to or loss of the Equipment and Software shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Equipment or Software, the time when SPC has tendered delivery of these.



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- 6.2 Notwithstanding delivery and the passing of risk in the Equipment and Software, or any other provision of these Conditions, the property in the Equipment shall not pass to the Buyer until SPC has received payment in full of the price of the Equipment. For the avoidance of doubt, title in the Software shall not transfer to the Buyer.
- 6.3 Until such time as the property in the Equipment passes to the Buyer:
- 6.3.1 the Buyer shall hold the Equipment as SPC's fiduciary agent and bailee; and
- 6.3.2 SPC shall be entitled at any time to require the Buyer to deliver up the Equipment to SPC and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Equipment is stored and repossess the Equipment. The Buyer hereby grants or shall procure the grant of a licence to enter such premises for the purposes of this clause 6.3.2.
- 6.4 Where the supply of Software forms part of the Contract, SPC shall grant or procure a licence, for the benefit of the Buyer, to use such Software under the terms specified in the relevant manufacturer's terms of licence or as otherwise agreed between the parties. Where the Buyer is required to enter into a sub-licence with SPC or an end user licence agreement with a third party, SPC's obligations under the Contract in respect of that Software shall be conditional upon the Buyer entering into such licence agreements. The Buyer agrees to be bound by such licence agreements. Nothing in these Conditions or the Contract shall be construed as assigning or transferring any copyright or other intellectual property rights in any of the Software to the Buyer.
7. Warranty and liability
- 7.1 Subject to the remainder of this clause 7, SPC warrants that:
- 7.1.1 any new hardware and all Software will be supplied with the benefit of the relevant manufacturer's warranty. SPC's sole liability in respect of such warranty shall be to use its reasonable endeavours to transfer, or to enforce the terms of, any relevant warranty protection for the benefit of the Buyer, subject to the Buyer complying with the conditions of such warranties. Should the term of any manufacturer's warranty provided under this clause 7.1.1 be for a period which is less than 12 months (of if no manufacturer's warranty applies), SPC shall additionally warrant that the relevant new hardware or Software will be free from material defects from the expiration of the applicable manufacturer's warranty (or date of delivery if no manufacturer's warranty applies) until the date which is 12 months from the date of delivery of such new hardware or Software ("SPC Warranty");
- 7.1.2 any used hardware will be delivered in good electronic and mechanical working order; and
- 7.1.3 any Services provided by SPC shall be carried out with reasonable care and skill.
- 7.2 SPC shall be under no liability in respect of any defect arising subsequent to delivery from fair wear and tear, wilful damage, negligence, operation otherwise than in accordance with the relevant manufacturer's instructions, abnormal working conditions (including installation or use of any Software on hardware which, in SPC's reasonable opinion, is inappropriate for such Software), misuse or alteration/modification or repair of the Equipment or Software without SPC's Written approval.
- 7.3 Save as provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.



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- 7.4 Provided SPC receives written notice from the Buyer of any breach of (1) the warranties under clauses 7.1.2 and/or 7.1.3 within 90 days of delivery and/or (2) the SPC Warranty before its expiry, then the Buyer's sole remedy will be to require SPC to repair the defective Equipment or Software or repeat the Services (as applicable) within a reasonable time and at SPC's expense. SPC may, at its sole discretion, instead replace the defective Equipment or Software or refund to the Buyer the price of the defective Equipment, Software or Services, but, without prejudice to clause 7.5, SPC shall have no further liability to the Buyer. SPC shall have no liability for breaches of the SPC Warranty, clause 7.1.2 and/or clause 7.1.3 unless it receives written notice within the requisite time period.
- 7.5 Should SPC fail to comply with its obligations under clause 7.4 within a reasonable time it shall be liable in damages to the Buyer provided that its liability for such failure shall be limited to a sum equal to the part of the Contract Price corresponding to the relevant defective Equipment, Software or Services.
- 7.6 Except as expressly provided for in these Conditions or in respect of death or personal injury caused by SPC's negligence or anything else for which SPC cannot exclude liability, SPC shall not have any liability to the Buyer (whether under or in connection with the Contract) for:
- 7.6.1 any economic losses, whether arising directly or indirectly, including administrative and overhead costs, loss of profits, business, contracts, revenues, goodwill, production and anticipated savings; or
- 7.6.2 any indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever which arise out of or in connection with the supply, use or resale of the Equipment, Software or Services by the Buyer.
- 7.7 Any liability which SPC may have under or in connection with the Contract for physical damage to the Buyer's tangible property shall be limited to an amount equal to £50,000.
- 7.8 SPC 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 SPC's obligations in relation to the Equipment, Software and/or Services, if the delay or failure in question was due to a Force Majeure Event.
- 7.9 Any damage to the Equipment and/or Software caused by transport must be notified to SPC in Writing within 7 days of delivery otherwise SPC shall not be liable for such damage.
8. Insolvency of Buyer
- 8.1 This clause applies if:
- 8.1.1 the Buyer makes any voluntary arrangement with its creditors, becomes subject to an administration order, becomes bankrupt or goes into liquidation, has an administrative receiver appointed or passes a resolution for winding-up (otherwise than for the purposes of amalgamation or reconstruction);
- 8.1.2 the Buyer is unable to pay its debts (within the meaning of that term under section 123, Insolvency Act 1986);
- 8.1.3 the Buyer ceases, or threatens to cease, to carry on business; or



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8.1.4 SPC reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

8.2. If this clause applies then, without prejudice to any other right or remedy available to SPC, SPC shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any further liability to the Buyer, and if the Equipment and/or Software has been delivered and/or the Services performed but not paid for the price shall become immediately due and payable notwithstanding any previous agreement to the contrary.

### 9. Exported Equipment

9.1 The Buyer warrants that it will not re-export the Equipment or any part of it in contravention of any UK law including, without contravention, the Export Control Act 2002 or any subordinate legislation under that Act.

9.2 Unless otherwise agreed, the Buyer shall be solely responsible for complying with any legislation governing the importation of the Equipment or Software into the country of destination, and shall be liable for all costs (including taxes) relating to such importation.

### 10 General

10.1 No single or partial exercise or failure or delay in exercising any right, power or remedy by either party shall constitute a waiver by that party of, or impair or preclude any further exercise of that or any right, power or remedy arising under the Contract or otherwise. No waiver by either party of any breach of the Contract by the other party shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.2 Any notice to either party under these Conditions shall be in Writing signed by or on behalf of the party giving it and shall be delivered personally or left at or sent by prepaid first class post, prepaid recorded delivery, fax, or email to the address of the party as notified in Writing from time to time.

10.3 To the extent that any provision of these Conditions is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of these Conditions, it shall not affect the enforceability of the remainder of these Conditions nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

10.4 Unless expressly provided in this Contract, no term of this Contract is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

10.5 This Contract shall be governed by the laws of England.

10.6 The English courts shall have exclusive jurisdiction over all disputes arising from this Contract.