

ENERGY COMMUNICATIONS SHORT PERIOD HIRE TERMS & CONDITIONS

1 APPLICATION OF TERMS AND CONDITIONS

The Terms and Conditions hereof set forth between Energy Communications Ltd (Owner) and Customer (Renter) with respect to Equipment shall not be amended unless accepted by the Owner in writing and signed by both parties. Customer use or acceptance of the equipment signifies acceptance of these Terms and Conditions.

2 RENTAL PERIOD

The Terms of rental shall be for the initial rental period set out on the Schedule of Equipment and thereafter. The rental commences on the day the Equipment is dispatched from the Owners premises and continues until the day the Equipment is returned during normal working hours. It is the Customer's responsibility to inform the Owner of the rental termination or extension and method of return of equipment. The Customer assumes the responsibility of returning the equipment to the Owner. It is the Customer's responsibility to obtain a written acceptance or receipt of Equipment from an authorised member of the Owners staff when returned by Customers own transport. In addition, if any such rental fee or other amount remains unpaid more than 30 days after the date it is due, the Owners shall have the right to terminate this Agreement, take immediate possession of the equipment and recover from the Customer, in any action to enforce Owner's rights here under, owner's costs and reasonable legal fees.

3 INVOICING

An Invoice of the initial period will be issued at the commencement of the hire with subsequent invoices issued at the close of each calendar month. The final invoice will include hire charges up to and including the day the Equipment is received back at the Owner's premises. Call charges will be invoiced on a monthly basis.

4 PAYMENT – CREDIT CARDS

The Customer authorises the Owner to deduct from the credit card account all sums due on or after the 14th day following date of invoice and each month thereafter.

5 PAYMENT – COMMERCIAL CREDIT ACCOUNTS

The Customer shall pay the Owner, on invoice provided monthly during the rental period, the invoiced monthly rental fee for each item of Equipment. Payment shall be due on the 30th day following the date of the invoice.

6 DELIVERY & COLLECTION

The Owner will use its reasonable endeavour to meet quoted delivery dates, but shall not be liable for any delay in delivery arising from whatever cause. Delivery and collection of equipment up to a distance of fifty miles radius of the Owners facility may be made up by the Owners transport based on standard charges available on request. Shipments other than by Owners transport within or outside the fifty-mile radius of Owners facility will be made as specified by the Customer and at the Customers expense. It is the responsibility of the Customer to return the equipment by prepaid shipment by only the following methods:-

- A Own Transport
- B 1st Class Post Recorded Delivery
- C A Secure Carrier
- D Air Cargo Operator

7 ACCEPTANCE OF EQUIPMENT

Unless notified by Customer within 48 hours it shall be conclusively presumed the Equipment was delivered in good operating condition and in complete accordance with the manufacturer's description.

1 CONDITIONS OF SALE INCLUDING ALL SUBSIDIARY COMPANIES WITHIN THE GROUP

These conditions shall form the basis of the contract between the Company and the Customer. Notwithstanding anything to the contrary in the Customer's standard conditions of purchase. These conditions shall apply except so far as expressly agreed in writing by the head office of the Company. No servant or agent of the Company has power to vary these conditions orally. Or to make representations or promises about the condition of the goods, their fitness for any purpose or any other matter whatsoever.

Unless otherwise agreed by us in writing, these conditions apply to all orders accepted by us for all goods and services provided by us.

2 PRICES

The details of goods and prices in our catalogue and leaflets are not an offer by us to supply goods at the prices stated therein or at all. Any order received from the buyer will be accepted at the price prevailing at the date of, and shown, on the Company's invoice. Price lists and specifications may be altered or withdrawn at any time without notice. All prices are subject to Value Added Tax at the appropriate rate except exports where the Customer will be responsible for any import duties or tax.

3 ORDER ACCEPTANCE

Unless otherwise expressly stated in writing, all quotations and estimates by the Company are invitations to treat. The Customer's order is an offer and will become binding upon the Company posting its confirmation of the order. A confirmed order may only be cancelled or varied with the Company's consent, the giving of the Company's consent shall not in any way prejudice the Company's right to recover from the Customer full compensation for any loss or expense arising from such cancellation or variation.

4 CANCELLATION

No order accepted by us shall be cancelled in any circumstances without our express written agreement.

5 PAYMENT AND TRANSFER OF PROPERTY

(1) Unless otherwise agreed in writing, payment shall be due on delivery and property in goods supplied shall not pass until payment has been received in full. Until payment in full the buyer shall hold and store at his own expense the goods on our behalf with license to use the goods, such license being revoked automatically on the insolvency of the buyer or expressly by actual revocation. Upon such revocation the Company shall be entitled to enter the buyer's premises and remove all or any of the goods used under the paid license (whether or not the same shall have been incorporated with other goods to form a new product PROVIDED THAT the goods are capable of removal and subsequent re-use) without prejudice to its right to sue for non payment. In the event of the Company exercising its right of removal it shall not be liable for any damage to the property or premises of the buyer caused by such removal. Until payment in full we shall have lien on all property of the buyer in our possession.

(2) A settlement discount is not allowed. The Company shall be entitled to charge interest on overdue accounts at a rate of 3% above National Westminster Bank Plc Base Rate for the time being and the Company may suspend deliveries without notice of any part of the buyer's order or orders and cancel any order or orders during any period in which payments are over due.

8 WARRANTY/LIABILITY FOR CLAIMS

The Owner hereby warrants to the Customer only that each item of equipment when delivered will be in good operating condition. Customer's damages for any breach by Owner of such warranty with respect to an item of equipment discovered to be defective either by Customer after delivery, in no event shall damages exceed the rental fees already paid by the customer for such items. The foregoing warranty and damages for breach thereof are exclusive warranty and damages in lieu of any oral representation and all other warranties and damages whether implied or statutory. The Owner does not warrant the merchantability of the Equipment or its fitness or suitability for any particular purpose or use. The Customer shall be solely responsible and hold the Owners fully indemnified against loss, damage or injury (including death) to persons or property occurring in connection with any of the said Equipment or as a result of the use thereof.

9 OWNERSHIP

The Equipment shall remain the property of the Owner and is provided to the Customer solely on a rental basis without any option to purchase.

10 CUSTOMER OBLIGATION

The Customer shall agree during the continuation of the contract.

- a) To keep the said Equipment in the Customers own possession and not to remove the same from the Customers own possession without first notifying in writing the Owners of its destination.
- b) To permit the Owners or their authorised representative at all reasonable times to enter upon premises or vessel where the said Equipment may be inspected, maintained, repaired or tested.
- c) To repay Owners on demand all cost, charges and expenses (incurred in any way) by reason of any breach of any of these items and conditions by the Customer including, but not by way of limitation, all costs, charges and expenses incurred in ascertaining the Equipment whereabouts.
- d) To keep the Equipment in good condition and not subject the same to any misuse, normal wear and tear excepted.
- e) To preserve the Owners and manufacturers identification numbers or marks or any nameplates that should be upon the said Equipment.
- f) To arrange at the Customers expense, adequate insurance cover for the Equipment against loss or damage from any occurrence whatsoever until the said Equipment is received at Owners facility and approved signature given.
- g) To notify the Owners in writing immediately, of any loss or damage to the said Equipment and on demand to reimburse the Owners in respect thereof within thirty days of the occurrence. The Owner shall continue to charge the full cost of rental for the said Equipment until such payment is received. The Customer shall be liable under this section for the full retail price of replacing the said Equipment.
- h) Not sell, assign, sub-rent or transfer the benefit of the contract whole or in part with possession of the said Equipment or any part of it at any time during the rental, without specific permission from the Owners.
- i) Do not make alteration, modifications or technical adjustments or to attempt to do any repairs to the said Equipment without the written consent of the owners.
- j) Any item of expendable material not returned to Owner will be charged at full retail price.
- k) To ensure that the Equipment is operated in a skilful and proper manner and by persons who are competent to operate same.

11 MAINTENANCE

Owner shall at its expense, provide routine maintenance for all Equipment and shall endeavour to repair or replace any item of Equipment which becomes defective during the rental period through no fault of the Customer. Unless otherwise agreed in writing the continuity of this Agreement is not affected by any item of Equipment being out of the Customers Possession for repair for less than three working days excluding transportation time. In the event that an item of equipment does not operate properly, the customer shall notify Owner and request instructions before taking remedial action of returning same to Owner. In the event that any item of equipment requires repair as a result of Customer negligence, misuse or abuse of such item, Customer shall bear the entire cost of any such repair, including shipping costs.

12 CUSTOMER UNDERTAKING

By entering into this agreement the Customer undertakes all reasonable and practicable steps to ensure its use of said Equipment conforms with the terms and conditions laid down in the Health and Safety at Work etc. Act 1974.

13 CANCELLATION

If Customer cancels part or all of Agreement prior to commencement of rental, such cancellation can only be accepted with Owners consent and on terms which indemnify Owner against loss.

PERIOD BEFORE HIRE WITHIN WHICH WE RECEIVE WRITTEN INSTRUCTION
More than 30 days Nil

15-29 days 50%
1-15 days 90%
On or after Hire date 100%

AMOUNT OF CANCELLATION CHARGE (shown as a % total hire excluding VAT)

14 PRICES

All prices quoted are exclusive of VAT which will be charged at the prevailing rate of tax point to date.

15 ADDITIONS AND ACCESSORIES

In this lease the Equipment shall include all additions and accessories thereto and all replacements and renewals thereto whether or not made before the date of the agreement.

16 RETURN OF EQUIPMENT

- a) If the Customer does not make arrangements to return the Equipment to the Owner following the initial hire period then (subject to clause 16c) the period of hire shall extend and PROVIDED THAT the Customer continues to pay the Hire Charges, until such time as either (i) the Customer returns the Equipment to the Owner; Or (ii) the Owner gives notice to the Customer that it requires immediate return of the Equipment in which case the Customer shall deliver up the Equipment forthwith.
- b) In the event of such termination, the Customer shall pay the Owner all outstanding rental payments and all call charges and interest on such amounts (if appropriate).
- c) Where the Equipment is hired to Customers who are consumers within the meaning of the Consumer Credit Act 1974, the Customer shall not be entitled to hire the Equipment for a period of more than 12 weeks.
- d) Where the Customer Chooses to return the Equipment prior to the end of the period of time set out on the Order Form the Owner shall be entitled to (i) increase the call charges in accordance with the standard rates or (ii) levy the cancellation charge on the Customer in accordance with Clause 13.

17 GENERAL

- a) Unless specified on the Order form the Customer shall not remove the Equipment from the IOM without the prior written consent of the Owner.
- b) This agreement shall be governed by Manx Law and the parties submit to the exclusive jurisdiction of the Isle of Man Courts.

ENERGY COMMUNICATIONS SALE TERMS & CONDITIONS

- (3) Without prejudice to the generality of this we shall extend to certain buyers items of credit such that payment shall be due in cash one month from the date of our invoice. If the Customer shall fail to pay promptly, he shall lose the benefit of any previously agreed discount. To apply to establish a credit account, the buyer must supply two current trade references and one bank reference and state the limit of credit required.
- (4) If the Customer fails to pay promptly, he shall lose benefit of any previously agreed discount. The Customer shall pay all accounts in full and not exercise any rights to set off or counter claim against invoices submitted.

6 DELIVERIES

- (1) If goods are delivered to the Buyer otherwise than at the Company's place of business goods damaged in transit or not delivered in accordance with its advice note shall not be repaired or replaced as necessary by the Company PROVIDED THAT the Buyer must give to the Company written notice of such damage or non-delivery within 7 days of receipt of the advice note or such time as will enable the Company to comply with the carrier's conditions of carriage (which ever shall be shorter).
- (2) Notwithstanding paragraph (1) above, if it is alleged that short delivery has occurred the buyer must give details of such allegation in writing within 5 days of receipt of the goods together with such information as is required by the Company to identify the alleged shortage including the advice note number, case number and condition of packing.
- (3) If delivery dates quoted, these are estimates only. The Company undertakes to use its best endeavours to despatch the goods on a promised delivery date, but does not guarantee to do so. Time of delivery shall not be of the essence of the contract unless expressly so stipulated in writing. If delivery is delayed by strikes, lockouts, fire, accidents, defective materials, delays in receipt of raw materials of bought-in goods or components, or any cause beyond the reasonable control of the Company a reasonable extension of time for delivery shall be granted and the Customer shall pay such reasonable extra charges as shall have been occasioned by the delay.
- (4) Where the goods are not delivered by the Company, but by an independent carrier, delivery to the carrier shall be delivery to the Customer.

7 DELIVERY AND PASSING OF RISK

Risk shall pass to the buyer on delivery

8 DRAWINGS ILLUSTRATIONS ETC

Drawings, illustrations, descriptive matter, weights, dimensions and shipping specifications submitted and the description and illustrations contained in our catalogues, price lists and other advertising material are approximate and by way of identification only and are intended merely to present a general idea of the goods described therein, and their use shall not, in any circumstances constitute a trade description.

9 NON ACCEPTANCE

Goods will not be supplied "on approval". Goods delivered, but found by the Buyer to be unsuitable for its purpose, may be returned to us only after our written confirmation. We may accept the return of items usually held in stock provided that they are returned promptly, carriage paid and in new condition. The price paid for such items will be refunded less a handling charge provided that the number and date of the appropriate invoice are given on the return of items listed but not normally stocked. Each case will be considered accordingly to circumstances and our decision will be final.

10 FITNESS FOR PURPOSE

No warranty is given that the goods supplied are fit for any particular purpose, save insofar as such purpose is defined by you or the goods are supplied to you in pursuance of a written request by you to supply goods for a particular purpose.

11 GUARANTEE

The Customer shall carry out a thorough inspection of the goods within a reasonable time after their delivery and shall give written notification to the head office of the Company forthwith of any defects, which a reasonable examination would have revealed. In the case of other defects, the Customer shall give written notification of defects in the goods within 12 months from the date of delivery of (if goods have been supplied by the Company under a main contract with a defects liability period) the end of the defects liability period whichever is the shorter, or other periods by mutual agreement, or as stipulated on the invoice/despatch note. Subject to compliance with the above obligations, which shall be a condition precedent to the Company's liability, the Company will repair or replace (at its option) any components of the Company's manufacture which fail due to faulty materials or workmanship. In the case of components or products not of Company's manufacture, but supplied by the Company as part of a contract or order, the Company will assign to the Customer its rights against its supplier and these rights shall be taken in extinction of and substitution of any rights which the Customer would otherwise have had against the Company.

In the case of new radio equipment supplied to dealers who either sell to the public, other dealers, or government departments, the guarantee will only apply to the supply of parts and only after the return of the defective part, unless agreed in writing prior to the return.

This guarantee excludes items sold as used, second hand, ex-demo or on special offer, in which case warranty will be advertised by agreement our normal guarantee period will be for 90 days.

In liability of the Company under this guarantee shall be limited to the invoice value of the components replaced or repaired and the Company shall not be liable for any consequential loss or damage howsoever caused. It shall be the duty of the customer to insure against such consequential loss and to hold the Company harmless therefore.

12 OUR LIABILITY IN RESPECT OF GOODS SUPPLIED

- (a)
 - (i) No oral representation by us, or our servants or agents, shall be incorporated into this contract
 - (ii) No representation condition or warranty other than such as may be implied by statute, notwithstanding any exclusion thereof by this agreement shall be incorporated into this contract.
- (b) Without prejudice to the Buyer's rights under section 5 of the Unfair Contract Terms Act 1977, we shall not be liable for any fault in goods supplied which fault can be remedied under the Manufacturer's warranty or guarantee, unless and until the buyer's remedies under that warranty or guarantee are exhausted.
- (c) Save in respect of loss of life and personal injury which liability cannot be excluded by law, we accept no liability for consequential loss of any kind whatsoever.

13 LEGAL CONSTRUCTION

Unless otherwise agreed in writing, the contract shall in all respects be construed and operate as a Manx contract and conformity with Isle of Man law.