



# TERMS AND CONDITIONS OF SALE BEC (SYSTEMS INTEGRATION) LTD

In these Conditions:

## 1. INTERPRETATION

"BEC" means BEC (Systems Integration) Limited, or such other person who is to supply the Products and or Ancillary Services as stated in the Contract; a reference to supply or delivery of the Products to the Customer, includes supply or delivery to or collection by any servant, agent, representative, shipper or carrier of the Customer; a reference to a person includes a reference to a company, partnership or individual; the singular shall include the plural and vice versa; and the headings are for convenience only and shall not affect the interpretation of these Conditions.

"Customer" means the person who has agreed to purchase the Products under the Contract;

"Contract" means any contract for the sale of any Products by BEC or the supply of any technical advice, support or maintenance ancillary to the supply of the products identified in the Contract Documents;

"Contract Documents" means the documents which constitute or evidence the Contract, including any Quotation or Project Specification issued by BEC that has been accepted by the customer, any order for Products and or Ancillary Services from the Customer, and any acknowledgement or acceptance of the Customer's order by BEC, together with any other documents referred to therein;

"Products" means the software and hardware stated or referred to in the Contract Documents;

"Ancillary Services" means any hardware or software installation, technical or user support activities and bespoke programming activities, implied or agreed between BEC and the customer and specified in the Contract Documents.

## 2. INCORPORATION

These Conditions shall be incorporated into all Specifications, offers, orders, acceptances, and contracts for the sale of any Products by BEC. All terms and conditions of the Customer are excluded.

## 3. SPECIFICATIONS

A Quotation or Project Specification shall not constitute a legal offer. A Quotation or Project Specification shall be valid only for orders or acceptances received within 28 days from the date of issue. All orders for the supply of any Products by BEC shall be subject to acceptance by the BEC.

## 4. VARIATIONS

Variation or amendment to the contract shall only be effective if communicated to BEC in writing and if written confirmation of such variation or amendment is received by the Customer. In the absence of such

documentation BEC shall be entitled to rely upon the original contract. BEC reserve the right to re-quote for any part of the contract where a Variation has been requested.

## 5. SALE AND PURCHASE

BEC agrees to sell and deliver and the Customer agrees to purchase and accept delivery of the Products on and subject to these Conditions. Where the Products are to be delivered in instalments, then each instalment shall constitute a separate contract.

## 6. PRODUCT SPECIFICATION

The specification of any Products shall be that set out in the Contract Documents. BEC shall be entitled to change the specification of the Products to conform with any applicable law.

## 7. PRICE

7.1 Price: The Customer shall pay the price for the Products stated in the Contract Documents.

7.2 Delivery Costs: Where BEC agrees to deliver the Products to a place other than the Customers premises, the Customer shall pay in addition to the Price the cost of all transport, packaging and insurance in transit of the Products, and all customs, duties, and other taxes payable in respect of the Products.

7.3 Value Added Tax: All amounts payable under the Contract are exclusive of value added tax and any other sales tax, which the Customer shall pay in addition at the applicable rate.

7.4 Surcharge or import taxes: The price of the Products does not include the cost of surcharges or import taxes levied on or payable by BEC and the Customer shall pay to the BEC (Systems Integration) Ltd on demand the amount of any such taxes or surcharges levied on or payable by BEC in respect of any order.

## 8. PAYMENT

8.1 Payment Terms: Unless otherwise agreed on the Contract Documents, all invoices are due for payment within 30 days of the date of the invoice.

8.2 Payment Period: Unless otherwise stated in the Contract Documents, the Customer shall pay the price of the Products and Ancillary Services as defined on the Contract Documents. The time for payment by the Customer shall be of the essence.

8.3 Deductions and Set-off: The Customer shall pay all amounts due under the Contract in full, without deduction, withholding, set-off or counterclaim.

8.4 Interest: If the Customer fails to pay any amount due under the Contract on or before the date by which it is payable, the Customer shall pay to BEC daily interest on such amount at the rate of 5 per cent per annum above base lending rate of Barclays Bank PLC from time to time in force, running from the date by which such amount was payable until such amount is paid (both before and after any judgement).

## 9. DELIVERY

9.1 Delivery Time: BEC will use its reasonable endeavours to deliver the Products by the delivery date stated in the Contract Documentation, or if no date is stated, within a reasonable time. Delivery dates are estimates only and time for delivery of the Products is not of the essence.

9.2 Delivery Place: Unless otherwise agreed on the Contract Documents, the Products will be delivered to the Customer's registered office.

9.3 Acceptance of Delivery: The Customer shall take delivery of the Products when tendered, and shall pay on demand all costs of return of the Products where delivery is not taken. If the Customer is to collect the Products, the Customer shall collect them within 5 days of the date on which the Products are notified as being ready for collection.

## 10. INSPECTION AND ACCEPTANCE

10.1 The Customer shall inspect the Products immediately on receipt. BEC shall not be liable for loss of, damage to or shortages of the Products discoverable on reasonable inspection of the Products, or for total loss of the Products in transit, unless the Customer notifies BEC no later than 3 days commencing on the date of delivery of any of the Products to the Customer. If the Customer does not give any such notice then the Products shall be considered to have been received in full and accepted by the Customer.

10.2 The Customer shall facilitate any installation of the products that shall be agreed between the parties. In the event that due to failure of the customer to make available any Product for any other reason whatsoever prevent or delay BEC from installing or commissioning the Products then BEC shall be entitled to raise an additional invoice for any loss or delay caused to BEC or its servants or agents

(Continued overleaf)

## 11. PASSING OF RISK

Risk of damage to or loss of the Products shall pass to the Customer at the time when the Products are delivered to the Customer.

## 12. PASSING OF TITLE

Title to the Products shall pass to the Customer when the Customer has paid for all of the Products and there shall be no amounts payable by the Customer to BEC under any other contract, and until that time title shall remain with BEC Subject to Clause 15 the Customer may use and resell the Products in the ordinary course of its business.

## 13. WARRANTY

13.1 Scope: Subject to Clause 13.2, BEC warrants that the Products will at the time of delivery to the Customer correspond with their specification and be free from material defects in construction or materials.

13.2 Conditions: BEC shall not be liable under the warranty in Clause 13.1 or under any other applicable warranty in relation to the Products (the "Warranty"):-

13.2.1 for breaches of the Warranty notified to BEC later than 12 months from the date of delivery of the Products to the Customer, or such other period of time as shall otherwise be agreed in writing or set out in any Contract Document;

13.2.2 for breaches of the Warranty notified to BEC later than 14 days from the date when the Customer becomes aware or ought to have been aware of the breach of the Warranty;

13.2.3 unless the Customer gives adequate particulars of the circumstances alleged to be a breach of the Warranty, and the Customer permits BEC to inspect the Products or returns the Products to BEC at the Customers cost and expense;

13.2.4 for or in respect of anything resulting from fair deterioration or wear or tear of the Products, any modification or damage to the Products by other than by BEC, failure to follow BEC's oral or written instructions in respect of the Products, incorrect or faulty handling, installation, maintenance, repair, storage, or external environmental conditions (unless and to the extent that the specification of the Products includes a statement as to the tolerance of the Products to such conditions);

13.2.5 if the price payable for all of the Products has not been paid by the date by which it is payable under the Contract; and/or

13.2.6 in respect of any circumstance discoverable on inspection under Clause 10.

13.3 Exclusion of other warranties/remedies: The Customer acknowledges and agrees that in entering into the Contract, it does not rely on, and shall have no remedy in respect of any statement, representation, or warranty given by any person relating to the Products or their supply (including as to condition, quality, and fitness for purpose) other than for the warranty set out Clause 13.1 or any other warranties expressly agreed in writing by BEC. All warranties implied by statute, common law, custom or otherwise as to the condition or quality of

the Products, or fitness for purpose of the Products, or correspondence with any sample are hereby excluded.

## 14. LIABILITY OF BEC (SYSTEMS INTEGRATION) LTD

14.1 Customer's Remedies: BEC's sole liability and the Customer's sole remedy for any shortages or loss or damage to the Products notified under Clause 9, or breach of any warranty in relation to the Products under Clause 13.1 or otherwise, shall be at the option of BEC to make good any shortages, repair or rectify the Products, supply replacements for the Products, and/or refund to the Customer any amounts paid by the Customer in respect of the Products.

14.2 Liability limited to the purchase price: The total liability of BEC for all loss, damage, injury or liability suffered or incurred by the Customer caused by or arising out of breach of the Contract by BEC, negligence of BEC in connection with the Contract, or breach of any statement, representation or warranty given in connection with the Contract or the Products (whether such liability arises in contract, tort, statute or otherwise however) shall be limited to the price of the Products under the Contract.

14.3 Excluded Types of Loss: BEC shall not be liable to the Customer for any loss of profit, use, bargain, revenue, production, business, goodwill or contract, or any increased or wasted costs or expenditure, or any liability of the Customer to any third party, or any consequential, indirect or special loss, suffered or incurred by the Customer caused by or arising out of a breach of the Contract by BEC, the negligence of BEC in connection with the Contract, or breach of any statement, representation or warranty given in connection with the Contract or the Products (whether such liability arises in contract, tort, statute or otherwise however).

14.4 Force Majeure: BEC (Systems Integration) Ltd shall not be liable to the Customer for any delay in performing or any failure to perform any of BECs obligations in relation to the Products if the delay or failure was due to any cause beyond BEC's reasonable control.

14.5 Non-Excluded Liability: Nothing in this Agreement shall operate to exclude or limit the liability of BEC for personal injury or death due to its negligence, or for fraudulent misrepresentation, or the rights or remedies of any person dealing as a consumer to the extent to which they may not be excluded or limited by law.

## 15. BREACH AND INSOLVENCY OF CUSTOMER

15.1 Non-payment and Insolvency: BEC may (without prejudice to its other rights or remedies) terminate the Contract immediately by notice to the Customer if any of the following events occurs in relation to the Customer: any amounts payable by the Customer under the Contract or any other contract with BEC become overdue, or the Customer wrongfully refuses to take delivery of the Products, or the Customer becomes unable to pay its debts (within the meaning of Section 123 or 268 of the Insolvency Act 1986), or the Customer is liquidated or wound up or has a petition for winding up presented against it, or the Customer passes a resolution for voluntary winding up, or if a petition for the appointment of an administrator is presented against the Customer, or if the Customer has a receiver or administrative receiver appointed to the whole or any part of its undertaking or assets, or if the Customer shall convene any meeting of its creditors or make a deed of assignment or arrangement or otherwise compound or compromise with its creditors, or the Customer shall commit any act of bankruptcy or be subject to an interim order, or

the Customer ceases or threatens to cease to carry on business, or upon the happening to the Customer of any analogous event in any relevant jurisdiction.

15.2 BEC (Systems Integration) Ltd's remedies: Where any of the events referred to in Clause 15.1 occurs in relation to the Customer, or BEC notifies the Customer that it has grounds for believing that the Customer will not pay or be able to pay for the Products:-

15.2.1 Cancellation Rights: BEC shall be entitled to suspend performance of the Contract and any other contract between the Customer and BEC;

15.2.2 Payment in Advance: BEC shall be entitled to require payment in advance of performance or delivery under the Contract and any other contract between the Customer and BEC;

15.2.3 Withdrawal of Credit: all amounts invoiced under the Contract or under any other contract between the Customer and BEC shall become immediately due and payable;

15.2.4 Retention of Title Products: the Customer shall cease to use or sell any Products delivered to it in which BEC retains title, and shall, unless the Customer pays immediately all amounts payable by the Customer under this Contract and any other contract with the Customer, return the Products to BEC and BEC shall have the right to enter on any premises where the Products are located to recover the Products.

15.3 Recovery Costs: The Customer shall pay to BEC all costs and expenses (including legal costs) incurred by BEC to enforce payment of any amounts payable by the Customer to BEC under the Contract, or to recover any Products in which BEC retains title.

## 16. GENERAL

16.1 Notices: Notices under the Contract shall be in writing and sent to the other party at its registered office or principal place of business or such other address as a party may have notified to the other to be its address for notices. Notices shall be considered to be received: if sent by hand, courier, or recorded delivery, on delivery; if sent by post, on the 2nd day following the day of posting if to an address in the UK, and the 7th day if to an address outside the UK; and if sent by facsimile, on completion of uninterrupted transmission. Notices sent by email or other electronic means will NOT be accepted as legally binding.

16.2 Variations: No variations, representations or warranties in relation to the Products, or Contract Documents shall be valid unless set out in a written document and signed by or on behalf of BEC.

16.3 Assignment: The Customer shall not be entitled to assign or transfer the Contract to any person.

16.4 Third Parties: The parties do not intend any term of the Contract to be enforceable by a third party.

## 17. GOVERNING LAW AND JURISDICTION

All Specifications and Contracts shall be governed by the laws of England, and the English Courts shall have exclusive jurisdiction.