



Firecomms Ltd. – Terms and Conditions of Sale

All orders for products (herein referred to as Products) sold by Firecomms Ltd., Cork, Ireland (herein referred to as Seller) to Purchaser are sold upon the following terms and conditions of the sale:

1. **DELIVERY:** Seller shall not be liable for delay in delivery caused by fire, flood, earthquake, accident, hazard, transportation, strike, labor conditions, terrorist activity, material shortage, including delay of material from Seller's usual sources of supply, federal and state legislation, governmental security advisory, and/or any other cause beyond Seller's control. In any such event, the date of delivery shall be correspondingly increased or extended. All risk of damage to or loss of Products at any time after shipment from Seller's factory is assumed by Purchaser and such damage or loss shall not operate in any way to release Purchaser from any of its obligations. Shipping dates are approximate and are subject to prompt receipt of information. Every effort will be made to ship within the time estimated but due to the nature of Seller's undertakings, notice is given that Seller shall have no liability for loss or damage (including incidental and consequential damages) resulting from Seller's delayed performance or shipment, for any reason whatsoever.

2. **TAXES:** All prices are exclusive of Value Added , federal, state, local and other excise, sales, use, property, transportation, occupational, and other taxes relating to the sale, now or hereafter imposed, together with penalties and expenses, all of which shall be paid by Purchaser. Purchaser shall be responsible for collecting and/or paying any and all such taxes whether or not they are stated in any invoice for Products shipped and shall indemnify Seller with respect thereto. Seller, at its option, may at any time separately bill Purchaser for any taxes not included in Seller's invoice, and Purchaser shall pay said taxes, or in lieu thereof, shall provide Seller with a tax exemption certificate acceptable to the taxing authorities.

3. **TERMS OF SALE & DELINQUENCY CHARGE:** Unless otherwise indicated herein, all sums due Seller shall be paid in full within 30 days of the invoice date (Net 30). In no event will Purchaser deduct any amounts from accounts payable, for any reason whatsoever. In no event will Purchaser submit, nor will Seller be required to accept, unauthorized charge backs, debit memos, or other deductions from accounts payable, for any reason whatsoever. Seller reserves the right to charge one (1%) percent per month (but no more than the maximum percentage permitted by law) on all balances not paid by Purchaser within the designated net terms. Seller reserves the right at any time to revoke any credit extended to Purchaser because of Purchaser's failure to pay for any Products when due or for any other reason deemed good and sufficient by Seller. Seller shall make no sale or shipment of any Products to Purchaser on open account, or in any manner, if at any time the financial responsibility of Purchaser becomes impaired or unsatisfactory to Seller, and Purchaser does not provide full security to Seller, or if at time of such sale or shipment does not provide full security to Seller, or if at time of such sale or shipment Purchaser is delinquent in the payment of any account to Seller. In the event Purchaser shall be in default of any of the terms and conditions hereof, or becomes insolvent or proceedings are instituted to declare Purchaser bankrupt, or a receiver is appointed for Purchaser in any court, Seller may at its option, terminate the contract and upon such termination by Seller, any and all claims or demands against Purchaser held by Seller shall immediately become due and payable.

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4. SECURITY INTEREST: Purchaser hereby grants to Seller and Seller hereby retains a security interest in all of the Products, and accessories or additions thereto, whether presently upon Purchaser's premises or after acquired, sold by Seller and held by Purchaser, and all spare parts and components therefor, all proceeds of their sale or other disposition, including but not limited to cash, accounts, contract rights, instruments and chattel paper. Seller may, with or without notice or consent to the Purchaser, file one or more financing statements pursuant to the Uniform Commercial Code to evidence Seller's security interest in the Products. Purchaser shall keep the Products free from any adverse lien, security interest or encumbrance, and will not waste or destroy the Products or any part thereof or use the Product in violation of any statute or ordinance. In the event Purchaser shall be in default under this contract, Seller shall have the remedies of a secured party under the Uniform Commercial Code. Seller may enter the premises of Purchaser and remove the Products or may require Purchaser to assemble the Products and make them available to Seller for repossession. Purchaser agrees to pay Seller's reasonable attorney's fees and costs for the collection of any amounts due hereunder or replevin or said products.

5. ADDITIONAL CHARGES: Except as otherwise specifically provided herein, Seller shall not be responsible for freight, transportation, insurance, shipping, storage, handling, demurrage or similar charges. If such charges are by the terms of sale included in a price, any increase in rates becoming effective after the date hereof shall be for the account of Purchaser.

6. LIMITATION OF WARRANTY: All Products sold by Seller to Purchaser are warranted by Seller for a period of 12 months commencing the date of delivery, to be free from defects in materials and workmanship and to conform to the specifications of Seller, provided that Purchaser purchases Seller's Products directly from Seller or Seller's authorized Distributor. This warranty is non-assignable and not transferable. LIABILITY UNDER THIS WARRANTY SHALL BE LIMITED, AT SELLER'S OPTION, TO THE REPLACEMENT OR REPAIR AT ITS FACTORY OF ANY DEFECTIVE PRODUCT, AS FURTHER DETAILED IN PARAGRAPH 7, BELOW. RESULTS OF ORDINARY WEAR AND TEAR, IMPROPER OPERATION OR MAINTENANCE, OR USE OF CORROSIVE OR ABRASIVE MATERIALS SHALL NOT BE CONSIDERED A DEFECT IN MATERIAL OR WORKMANSHIP. ANY PART MANUFACTURED BY ANOTHER IS NOT COVERED BY SELLER'S WARRANTY, BUT ONLY BY SUCH WARRANTY AS ITS MANUFACTURER GIVES. UPON THE REPAIR OR REPLACEMENT OF A DEFECTIVE PART, SELLER'S WARRANTY WILL CONTINUE FOR THE REPAIRED OR REPLACEMENT PART FOR THE REMAINDER OF THE 12 MONTH PERIOD FOR THE ORIGINAL PART. THE WARRANTY HEREIN CONTAINED IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESSED, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. LIMITATION OF REMEDY: IF ANY PORTION OF THE PRODUCTS DELIVERED TO PURCHASER IS DEFECTIVE OR OTHERWISE NOT IN ACCORDANCE WITH CONTRACT SPECIFICATIONS, SELLER SHALL HAVE THE RIGHT IN ITS DISCRETION TO EITHER REPLACE THE PRODUCT, OR REPAIR AT ITS FACTORY ANY DEFECTIVE PART.

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SELLER SHALL HAVE THE OPTION OF REQUIRING THE RETURN OF MATERIALS CLAIMED TO BE DEFECTIVE, TO SELLER'S WAREHOUSE LOCATION TO ESTABLISH THE CLAIM. IN SUCH CASES, A RETURN MATERIAL AUTHORIZATION NUMBER MUST BE REQUESTED BY ORIGINAL PURCHASER AND ACCOMPANY THE RETURN SHIPMENT OF DEFECTIVE MATERIAL. MATERIALS SHALL BE SHIPPED TO SELLER'S FACILITY ONLY AS DIRECTED IN THE RETURN MATERIAL AUTHORIZATION, COST OF INSURANCE AND FREIGHT PREPAID BY PURCHASER. THE AUTHORIZED RETURN OF ANY PRODUCT MUST BE RECEIVED BY SELLER ON OR BEFORE THE RETURN MATERIAL AUTHORIZATION EXPIRATION DATE, 14 BUSINESS DAYS FROM THE DATE IT IS ISSUED. THE RETURN MATERIAL AUTHORIZATION NUMBER MUST APPEAR ON THE OUTSIDE OF ALL SHIPPING CARTONS USED IN RETURNING PRODUCTS.

SELLER AND PURCHASER ACKNOWLEDGE THAT PURCHASER'S SOLE AND EXCLUSIVE REMEDY AGAINST SELLER SHALL BE REPAIR OR REPLACEMENT OF DEFECTIVE PARTS AS PROVIDED HEREIN. IN NO EVENT, BE IT DUE TO A BREACH OF ANY WARRANTY MADE IN CONNECTION WITH THIS AGREEMENT, OR ANY OTHER CAUSE ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF THESE TERMS AND CONDITIONS OR OF THE PRODUCTS SOLD HEREUNDER, SHALL SELLER BE OBLIGATED OR LIABLE TO PURCHASER IN ANY MANNER FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, PLANT DOWN TIME OR SUITS BY THIRD PARTIES.

8. CANCELLATIONS OF ORDERS AND RETURN OF CONFORMING PRODUCT: Purchaser shall not countermand or cancel any order or cause the work or shipment to be delayed, except with the written consent of, and upon terms agreed to by, Seller, and with full compensation to Seller for any loss sustained by reason of cancellation. All requests for Return Material Authorization under this section must be made by the original Purchaser within 2 weeks of the original delivery date.

Return of Product conforming to Specifications shall only be permitted in accordance with a Return Material Authorization, which shall be issued at Seller's sole discretion. Unless specifically provided otherwise, all returned Product must be new, unused, undamaged, and sealed in the original packaging. Product shall be shipped to Seller's warehouse, freight and insurance prepaid by Purchaser. Excessive labeling and improper packaging will not be accepted.

Allowances requested by Purchaser for returned Product are subject to Seller's final count, inspection, review and approval. Deductions from accounts payable shall not be made by Purchaser.

9. TRADEMARKS: Purchaser shall not use any trademark or tradename owned by Seller, either alone or with any other word or words as part of Purchaser's trade or corporate name, without the express written permission of Seller. Purchaser shall not in any way do or commit any act, which shall be inconsistent with Seller's exclusive ownership of the trademark. Upon request by Seller, Purchaser shall discontinue completely any use of any of Seller's trademarks or tradenames, for any purposes whatsoever, including use in Purchaser's trade or corporate name.

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10. MISCELLANEOUS PROVISIONS:

(a) The foregoing comprises the Seller and Purchaser's entire agreement, and constitutes the final expression of all terms of the agreement between the Seller and Purchaser, and is a complete and exclusive statement of those terms. The provisions contained herein entirely supersede any prior oral or written correspondence, quotation or agreement. There are no agreements between Seller and Purchaser in respect to the Product herein except as set forth in writing and expressly made a part of this contract. Acceptance of this contract is limited to the terms, conditions, specifications, prices set forth herein or attached hereto, and any additional terms, conditions, specifications and/or prices are rejected by Seller unless expressly agreed to in writing by Seller.

(b) If any term or condition or a part contained herein is held invalid, the remaining terms and conditions of this contract shall not be affected thereby.

(c) This contract may be modified or rescinded only in writing signed by both parties or by their duly authorized agents.

(d) No claim or right arising out of a breach of this contract may be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is in writing, signed by the aggrieved party.

(e) No delegation of any obligation owed, nor performance of any obligation, by Purchaser shall be made without the written permission of Seller. Any attempted assignment or delegation shall be wholly void.

(f) All rights available to Seller under the Uniform Commercial Code, even though not specifically enumerated herein, are expressly reserved to Seller's remedies available to it in case of Purchaser's breach.

11. All matters connected with this Agreement, the Purchase Order and performance thereof shall be construed, interpreted, applied and governed in all respects exclusively by the laws of the Republic Of Ireland.