

SPIRENT COMMUNICATIONS SAS STANDARD CONDITIONS OF SALE

1 Basis of Sale

- 1.1 Quotation by Spirent does not constitute an offer and may be withdrawn or revised at any time prior to Spirent's acceptance of the Order.
- 1.2 The Order constitutes an offer by the Buyer, capable of acceptance by the Spirent, to purchase the Products subject to these Conditions.
- 1.3 No Order shall be binding upon the Spirent unless the Spirent expressly accepts the Order by written notice to the Buyer ("Acceptance Notice") In which case a contract (the "Contract") will be framed, for the sale and purchase of the Products, comprising the Order, Acceptance Notice and these Conditions.
- 1.4 These Conditions shall apply to, and shall be part of, the Contract to the exclusion of any terms and conditions of the Buyer
- 1.5 No variation to the Contract shall be binding unless agreed in writing between the authorized representatives of the Buyer and the Spirent.

2 Price

- 2.1 The Price of the Products shall be as stated in the price quotation and/or in the Spirent applicable price list for the Products in effect at the date of invoice and, unless otherwise so stated, shall be. 2.1.1 exclusive of VAT and any other tax which, where applicable, shall be payable by the Buyer in addition to the Price, and
- 2.1.2 exclusive of all charges for packaging, packing, shipping carriage, insurance and delivery of the Products, and any value added or sales tax and other duties, imposts or levies, which, where applicable, shall be payable by the Buyer in addition to the Price.
- 2.1.3 The prices are fixed and shall not be subject to change provided the order is received by Spirent before expiry of the validity period shown in the price quotation and/or current price list.

3 Terms of Payment

- 3.1 Spirent may invoice the Buyer on (or after) the date of shipment of the Products to the agreed point of delivery when the Contract provides that the Products are to be delivered to such place by Spirent.
- 3.2 The Buyer shall pay Spirent's invoices in full without any deduction whether by way of set off, counterclaim or otherwise within 30 days of the sale of Spirent's invoice.
- 3.3 Spirent shall be entitled to charge interest on late payments before as well as after judgment at the rate of 4% per annum above HSBC Bank's base rate from time to time.
- 3.4 Partial payment expressed to be "in full and final settlement" shall be effective as such unless specifically agreed In Writing by Spirent.

4 Delivery

- 4.1 Delivery of the Products shall be made to the place of delivery specified in the Contract, by Spirent.
- 4.2 The Buyer acknowledges any dates for delivery of Products are estimates only. Accordingly, Spirent shall have no liability in the event of any delays. The time of supply or delivery of the Products is not of the essence of the Contract and shall not be made of the essence of the Contract.
- 4.3 The Buyer shall be deemed to have accepted the Products upon delivery in all cases other than when the Products are damaged at the time of delivery and the Buyer notifies Spirent (in Writing) of such damage within eight (8) days of the date of delivery in which case Spirent shall, at its sole option and as the Buyer's sole and exclusive remedy, replace or repair any such Products or part thereof which are proved, to Spirent's satisfaction, to have been damaged at the time of delivery.
- 4.4 If the Buyer refuses or fails to take delivery of Products tendered in accordance with these Conditions then, without prejudice to any other rights Spirent may have against the Buyer (for breach of contract or otherwise):
 - 4.4.1 Spirent shall be to immediate payment in full for the Products so tendered and either to effect delivery by whatever means it considers most appropriate or to store those Products at the risk of the Buyer.
 - 4.4.2 The Buyer shall, in addition to the Price, pay all costs of such storage and any additional costs incurred as a result of such refusal or failure, and
 - 4.4.3 Spirent shall be entitled, after the expiration of 1 month from the date upon which it first tendered the Products for delivery, to dispose of the Products in such manner as Spirent may determine and shall be under no duty to account to the Buyer for any of the proceeds of such disposal.
- 4.5 Spirent shall be entitled to deliver the Products under a Contract in installments.

5 Risk and Property

- 5.1 Risk of damage to or loss of the Products shall pass to the Buyer upon delivery to the Buyer in accordance with the Contract.
- 5.2 The title in the Products shall, subject to the second sentence of this Clause 5.2, pass to the Buyer upon full payment for the Products or on is later. Title to the Software (as defined in Clause 6.1 below) contained in or supplied with or for use with the Products shall not pass to the Buyer but shall remain at all times with Spirent.
- 5.3 Until such time as title in the Products has passed to the Buyer.
 - 5.3.1 Spirent shall be entitled to repossess at any time any of the Products in which title remains vested in Spirent.
 - 5.3.2 For the purpose specified in Clause 5.3.1 above, Spirent or any of its agents or authorized representatives shall be entitled at any time and without notice to enter upon any premises in which the Products or any part thereof are installed, stored or kept, or are reasonably believed so to be;
 - 5.3.3 Spirent shall be entitled to seek a court Injunction or equivalent judicial order under the applicable law of the Contract to prevent the Buyer from selling, transferring, or otherwise disposing of the Products.
- 5.4 Until such time as title In the Products has passed to the Buyer, the Buyer shall, subject to Spirent's rights hereunder, keep the Products separate from other products and hold the Products as Spirent's fiduciary agent.

6 Software & Documentation

- 6.1 The Product units supplied to the Buyer under the Contract shall contain embedded software ("Embedded Software"), and external software ("External Software") shall be supplied for use with the Product (Embedded Software and External Software being collectively referred to as "Software"). The Software is more fully described in the Specification. Except as otherwise expressly provided herein, all references to "Product" in these Conditions shall be deemed to include such Software, provided that nothing in these Conditions shall be construed as a sale (and/ or assignment) of such Software to the Buyer.
- 6.2 Spirent's software license and restrictions are included in the Software License Agreement included with the Product. Such Software License Agreement shall be in addition to these Conditions of Sale and can be found at: <https://www.spirent.com/assets/end-user-license-agreement-eula> .
- 6.3 Each Product is accompanied by a copy of the user's manual in the form of a CD ROM, or hardcopy (on request).

7 Maintenance Support, Hire or Loan

- 7.1 The provision, by Spirent, of maintenance and support hire or loan for the Product may be included in this Agreement or may be the subject of a separate agreement between the parties.

8 Warranties and Liability

- 8.1 Spirent warrants to the Buyer for a period of ninety (90) days that Software and 1 (one) year for hardware that the Products will be free from defects in materials and workmanship ("Limited Warranty") following the date of delivery ("Warranty Period").

8.2 Spirent's entire liability and the Buyer's sole remedy will be at Spirent's sole discretion, the repair or replacement (with the same or similar hardware) of any hardware not meeting the Limited Warranty set out above in.

- 8.1 That is returned to Spirent during the Warranty Period in accordance with the terms and conditions of the Contract. To the extent that Spirent elects to repair Product (including component parts thereof) the warranty period in respect of such repaired Product shall be equal to an unexpired portion of the warranty for the Product outstanding at the date of repair.
- 8.2 In respect of repair of Products after expiry of the warranty period referred to Clause 8.1 above such repairs may be conducted at the discretion of Spirent on commercial terms agreed at the date of such repair and in such event the warranty period for such product shall be 3 months from date of repair.
- 8.3 To the maximum extent permitted by law all other warranties and conditions, expressed or implied, including without limitation any conditions of quality, merchantability, or fitness for a particular purpose with respect to the use of the Products are excluded.
- 8.4 Specifically, the Limited Warranty in Clause 8.1 does not cover failures of the Products which result from accident, abuse, misuse, alterations (by persons other than Spirent or its authorized repair agents), moisture, corrosive environments, shipping, high voltage surges, or abnormal working conditions. The Limited Warranty does not cover normal wear and tear. The Limited Warranty does not cover the Software which is provided the fullest extent permitted by law, "as is". For clarification, the warranty period does not cover firmware or software updates/ upgrades, de-bugging or various maintenance/support service levels. These items which are excluded from the Warranty Period are available under a Supplier Maintenance & Support Agreement.
- 8.5 In no event shall Spirent's liability under Clauses 8.1 and 8.2 exceed the price paid for the Products in question, provided always that nothing in this Contract shall limit or exclude Spirent's liability for death or personal injury resulting from its negligence.
- 8.6 If the Buyer needs to make a claim under the Limited Warranty within the Warranty Period, the Buyer must telephone Spirent prior to sending the Product to Spirent. Spirent will inform the Buyer as to where (and how) to return the Product. Spirent will not accept any Products returned to it where this procedure is not followed.
- 8.7 The Buyer is responsible for all costs involved in sending the Products to Spirent and for packaging the Product such that it will not be damaged during return carriage to Spirent
- 8.8 Spirent reserves the right to charge the Buyer on a time and materials basis at its then current rates if the Customer's warranty claim is found to be invalid.
- 8.9 Spirent gives no warranty that the Products do not infringe the patent, copyright, design right, trademark or other intellectual property rights of any person and (to the maximum extent permitted by law) accepts no liability in this regard.

9 Termination

- 9.1 Either party may terminate the Contract, by notice in writing, If the other party commits a material breach of the Contract and fails to remedy such breach within fourteen (14) days after being requested by notice in writing to do so.
- 9.2 Spirent shall be entitled to terminate the Contract without liability to the Buyer by giving notice to the Buyer at any time if: the Buyer makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction), or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer, or the Buyer is unable to pay its debts as they fall due; or the Buyer ceases, or threatens to cease, to carry on business, or Spirent reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10 General

- 10.1 Spirent may assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract. The Buyer may not assign or transfer the Contract.
- 10.2 Any notice required or permitted to be given by either party to the other shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.3 No waiver by Spirent of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. Any waiver of the Contract by Spirent shall only be effective if in Writing expressly waiving the provision in question.
- 10.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 10.5 Spirent shall be under no liability to the Buyer in respect of anything which, if this Clause were not part of the Contract, may constitute breach of the Contract arising by reason of force majeure, namely circumstances beyond the reasonable control of Spirent which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority; shortage of supplies, utilities, equipment, materials, breakdown or shortage of equipment and labor disputes of whatever nature and for whatever cause arising.
- 10.6 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Conditions and/or any Contract In particular but without limitation any warranties given in the Contract are for the benefit of the Buyer being the original purchaser of the Products, only.
- 10.7 All (and any) liabilities of Spirent to the Buyer under, or arising out of, a Contract (including, but not limited to, liability for breach of contract, negligence and misrepresentation), which may be excluded or limited at law and which have not been excluded or limited by any other provision of these Conditions shall be limited, in aggregate, to the value of the relevant Contract
- 10.8 Exclusion of damages; limitation on liabilities. Except as explicitly provided herein in no event shall either party or its supplier be liable for (A) any indirect, special incidental punitive or consequential damages including but not limited to loss of profits, loss of data and/or loss of business, arising out of or resulting from this agreement even if the other party has been advised of the possibility of such damages, or (B) damages in excess of the amounts payable hereunder by Buyer. The foregoing shall apply regardless of the negligence or other fault of each party and regardless of whether such liability sounds in contract, negligence, tort, or any other theory of legal liability.
- 10.9 To the extent permitted by law, the Buyer shall defend and indemnify Spirent from any and all claims brought against Spirent by third parties, and shall hold Spirent harmless from all corresponding damages, liabilities, costs and expenses, (including reasonable lawyers' fees) incurred by Spirent arising out of or in connection with Customer's possession, use or distribution of the Products.
- 10.10 The parties agree that, to the extent permitted by law the Vienna Convention of 1980 ("The Convention on Contracts for the International Sale of Goods") and all international and domestic (or other) implementations of that Convention shall not apply in relation to any Contract.
- 10.11 The Contract shall be governed and construed in accordance with the laws of France. In the case of any legal disputes which may arise as a result of these Conditions or the activities arising therefrom, it is expressly agreed that jurisdiction shall be conferred on the courts of Versailles.
- 10.12 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted, or extended at the relevant time.
- 10.13 The headings in these Conditions are for convenience only and shall not affect its interpretation.
- 10.14 Additional Considerations:
Cancellation for implementation and educational services are as follows:
More than two (2) weeks' notice - no cancellation fee.
Between two (2) weeks and one (1) week notice-50% cancellation fee.
Less than one (1) week notice - 100% cancellation fee