



Any order placed by a Customer shall constitute an offer to contract subject to the Standard Terms and Conditions for the sale of equipment and software licences ("the goods") herein contained ("the Conditions") to the exclusion of any other terms and conditions. Such an offer in the form of a SAIPH Order Form signed by the CUSTOMER may be accepted by SAIPH'S authorised representative whereupon a contract shall be formed ("the Contract"). Unless expressly agreed in writing by an authorised representative of SAIPH no addition to, or variation from, these conditions shall be valid or binding.

**1. Publications**

- 1.1 All descriptions and illustrations contained in any SAIPH brochures, price lists, quotations, advertising matter and all publications, and on the SAIPH corporate website ([www.saiphcommunications.com](http://www.saiphcommunications.com)), are intended to be illustrative only and shall not form part of a Contract unless specifically incorporated therein by written agreement between the CUSTOMER and SAIPH.
- 1.2 SAIPH reserves the right to make any changes in the specification of the goods which are required to conform with any statutory or EC requirements, or which do not materially affect their quality or performance.

**2. Prices**

- 2.1 Quotations given in writing by SAIPH shall remain valid for thirty (30) days from the date of quotation.

**3. Delivery**

- 3.1 Any dates quoted for delivery of the goods are approximate only and SAIPH shall not be liable for any delay in delivery of the goods howsoever caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by SAIPH in writing.
- 3.2 Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by SAIPH to deliver any one or more instalments in accordance with these Conditions or any claim by the CUSTOMER in respect of any one or more instalment shall not entitle the CUSTOMER to treat the Contract as a whole as repudiated.
- 3.3 If SAIPH fails to deliver the goods (or any instalment) for any reason other than any cause beyond SAIPH'S reasonable control or the CUSTOMER'S fault, and SAIPH is accordingly liable to the CUSTOMER, SAIPH'S liability shall be limited to the excess (if any) of the cost to the CUSTOMER (in the cheapest available market) of similar goods to replace those not delivered over the price of the goods. Claims for non-delivery of the goods must be made in writing to SAIPH within five (5) working days from the date of invoice. The CUSTOMER shall be deemed to have accepted goods upon delivery unless the CUSTOMER rejects the goods in writing to SAIPH within five (5) working days of delivery.

**4. Payment**

- 4.1 SAIPH shall be entitled to invoice the CUSTOMER for the price of the goods at any time after the Contract has been concluded. The CUSTOMER shall pay the purchase price, without any deduction or set-off, in accordance with the credit terms contained in the SAIPH Order Form signed by the CUSTOMER.





- 4.2 SAIPH shall be entitled to recover the purchase price notwithstanding that delivery may not have taken place and the property in the goods has not passed to the CUSTOMER. Punctual payment is the essence of the Contract.
- 4.3 If the CUSTOMER fails to make any payment on the due date then, without prejudice to any right or remedy available to SAIPH, the full price of all goods delivered to the CUSTOMER under any contract with SAIPH but not paid for shall become immediately due and payable (notwithstanding any previously agreed credit terms) and SAIPH shall be entitled to:
- 4.3.1 by notice, terminate the Contract and recover from the CUSTOMER all losses, expenses and costs suffered or incurred by the SAIPH;
  - 4.3.2 suspend or withhold any further deliveries to the CUSTOMER without liability to the CUSTOMER;
  - 4.3.3 appropriate any payment made by the CUSTOMER for any goods to such other goods (to include goods supplied under any other contract between the CUSTOMER and SAIPH) as SAIPH may think fit (notwithstanding any purported appropriation by the CUSTOMER); and
  - 4.3.4 charge the CUSTOMER interest (both before and after any judgment on the amount unpaid), at the rate of 2% per month, until payment in full is made (a part of a month being treated as a full month for purposes of calculating interest).

**5. Title**

- 5.1 Risk in the goods shall pass to the CUSTOMER upon delivery and the CUSTOMER shall insure them for the invoice value whilst the goods are in the CUSTOMER'S possession and control. Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, the property in the goods shall not pass to the CUSTOMER until SAIPH has received in cash or cleared funds payment in full of the price of the goods.
- 5.2 Until such time as the property in the goods passes to the CUSTOMER the CUSTOMER shall hold the goods as SAIPH'S fiduciary agent and bailee and keep the goods in their original boxes separate from those of the CUSTOMER and third parties and properly stored, protected, insured and identified as SAIPH'S property, but shall be entitled to resell or use the goods in the ordinary course of its business, provided that any such resale shall be subject to a retention of title clause, including a right of entry to repossess goods covered by this clause.
- 5.3 If all or any of the goods are resold and the CUSTOMER and SAIPH are unable to recover the goods pursuant to the retention of title clause the CUSTOMER shall account to SAIPH for the proceeds of sale or otherwise of the goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the CUSTOMER and third parties, and in the case of tangible proceeds, properly stored, protected and insured.
- 5.4 Until such time as the property in the goods passes to the CUSTOMER, SAIPH shall be entitled at any time to require the CUSTOMER to deliver up the goods to SAIPH and if the CUSTOMER fails to do so immediately, to enter on or in any premises or vehicles of the CUSTOMER or any third party where any goods are loaded or stored and repossess the goods. The CUSTOMER shall not be entitled to pledge or in any way charge by way of security for indebtedness any of the goods which remain the property of SAIPH, but if





the CUSTOMER does so all monies owing by the CUSTOMER to SAIPH shall (without prejudice to any other right or remedy of SAIPH) immediately become due and payable.

**6. Goods Supplied by SAIPH to Customer via a Finance Provider**

6.1 In the event that the CUSTOMER requests SAIPH to arrange finance (for example, through lease or hire purchase agreement) with a Finance Provider in order to acquire the goods it has ordered from SAIPH then the CUSTOMER will additionally be contractually bound by the Terms and Conditions of the Finance Provider. Under such an arrangement SAIPH will issue its invoice to the Finance Provider, who will pay SAIPH once the goods have been supplied by SAIPH to the CUSTOMER, and commence collecting payment instalments by direct debit from the CUSTOMER.

**7. Customer Default**

7.1 If the CUSTOMER shall become bankrupt, go into liquidation, become insolvent or have a Receiving Order raised against it, or SAIPH reasonably apprehends that any of these events is about to occur in relation to the CUSTOMER and notifies the CUSTOMER accordingly, or the CUSTOMER shall default in or commit any breach of its commitments to SAIPH then SAIPH shall have the right (without prejudice to any further or other claims or rights) to terminate the Contract forthwith and payment for any deliveries already made shall become due immediately.

**8. Cancellation and Rescheduling of Orders**

8.1 No order which has been accepted by SAIPH may be cancelled or rescheduled by the CUSTOMER except with the agreement in writing of SAIPH and on terms that the CUSTOMER shall indemnify SAIPH in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages and expenses incurred by SAIPH as a result of cancellation, subject to a minimum of 5% of the total value of the cancelled order (which amount the CUSTOMER agrees represents a genuine estimate of SAIPH' loss), together with SAIPH'S costs of recovering the goods delivered or in transit.

**9. Warranty**

9.1 SAIPH shall use reasonable endeavours to transfer to the CUSTOMER the benefit of any warranty or guarantee given to SAIPH from a manufacturer of the products supplied under these Conditions.

9.2 The CUSTOMER will not be protected in the event of malfunctions of the goods or losses caused by the CUSTOMER (e.g., because of an inadequate environment or product misuse) in accordance with the manufacturer's Disclaimer of Warranty.

9.3 SAIPH makes no warranties (express, implied or statutory) concerning the goods, including without limitation, any warranties of merchantability or fitness for a specific purpose except where required to do so by law.

**10. Software Licences**

10.1 Software is inherently complex; SAIPH does not promise that software is error free, or that errors will be corrected.

10.2 SAIPH supplies software licences on behalf of its equipment suppliers, who forbid SAIPH from varying the licences.





## **11. Customer's Responsibilities**

- 11.1 The CUSTOMER agrees not to use any of the goods supplied by SAIPH in accordance with these Conditions:
- 11.1.1 to carry any defamatory or obscene material or to make any menacing, nuisance or hoax calls;
  - 11.1.2 in connection with any infringement of another person's intellectual property rights or in making a criminal offence; or
  - 11.1.3 so as to violate the terms of any applicable telecommunications licence or any laws governing trans-border flow (e.g., laws dealing with data protection, privacy and confidentiality).
- 11.2 The CUSTOMER further agrees to indemnify SAIPH from any claims against SAIPH, to the extent caused by the CUSTOMER'S violation of this provision. SAIPH is not responsible for the content, protection or privacy of information held by the CUSTOMER or transferred or accessed through use of the goods supplied by SAIPH under these Conditions.
- 11.3 The CUSTOMER is responsible for use and compatibility of goods not supplied by SAIPH. If these items impair the CUSTOMER'S use of the goods supplied by SAIPH under these Conditions then the CUSTOMER must still make full payment to SAIPH.

## **12. Limitations of Liability**

- 12.1 Nothing in these Conditions shall exclude or limit:
- 12.1.1 either party or death or personal injury caused by its (or its agent's or sub-contractor's) negligence; or
  - 12.1.2 any breach of obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 12.1.3 either party's liability to the other for fraud or fraudulent misrepresentation, and this section 12.1 takes precedence over all other sections in these Conditions.
- 12.2 SAIPH accepts liability for direct loss of, or damage to, the tangible property of the CUSTOMER caused by its negligence or breach of contract, subject to a limit of liability of £100,000 per claim or series of connected claims and a limit of liability in any twelve (12) month period of £1,000,000. On request, SAIPH will seek to increase the limit of £100,000 per claim to such sum as the CUSTOMER and SAIPH may agree, subject to the CUSTOMER paying SAIPH, before the increase takes effect, for any additional insurance premium or other costs in respect of the necessary insurance cover for such limit.
- 12.3 Except in respect of death or personal injury caused by SAIPH'S negligence, as in section 12.1.1, SAIPH shall not be liable to the CUSTOMER by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of SAIPH, its employees or agents or otherwise) which arise out of or in connection with the supply of the goods or their use or resale by the CUSTOMER. Nothing in this clause shall exclude any liability of SAIPH for breach of its implied term as to title or, where the CUSTOMER deals as a consumer (as defined in the Unfair Contract Terms Act 1977) any liability of SAIPH for breach of its implied undertakings as to conformity with description or samples, or as to their quality or fitness for a particular purpose.





**13. Assignment and Data Protection**

- 13.1 The CUSTOMER shall not assign or otherwise transfer all or part of these Conditions without the prior written consent of SAIPH. SAIPH shall be entitled to assign and/or sub-contract all or part of these Conditions. SAIPH may perform obligations hereunder by using one (1) or more SAIPH companies.
- 13.2 SAIPH may collect any personal data in connection with the CUSTOMER for the operation of its business provided it keeps such data in accordance with the Data Protection Act 1988.

**14. Export Laws**

- 14.1 The CUSTOMER agrees not to export or re-export from the United Kingdom, directly or indirectly, any goods provided by SAIPH without obtaining an export licence and/or written consent from the applicable, United Kingdom, United States or other government agency, as required. SAIPH shall not be responsible for any costs or damages resulting from the failure of the CUSTOMER to obtain the appropriate export licence and or written consent.

**15. Errors**

- 15.1 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by SAIPH shall be subject to correction without any liability on the part of SAIPH.

**16. Force Majeure**

- 16.1 Neither party shall be responsible for any failure nor delays in meeting any of its obligations (except to make payments) under the Contract which are due to causes beyond its reasonable control (e.g. acts of God, strikes, acts of war, governmental acts or regulations, fires, power failures, earthquakes, etc).

**17. Law**

- 17.1 The proper law governing these Conditions shall be English Law and the forum for the settling of any disputes under the Contract shall be the English courts or, at SAIPH'S sole and absolute discretion, such other forum as it may, by notice to the CUSTOMER, determine.

**18. Notices**

- 18.1 Any notice to be given by either party to the other under these Conditions 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. Hand delivered and facsimile notices shall take effect on receipt and postal notices two (2) working days after posting.

**19. Waiver**

- 19.1 No waiver by SAIPH of any breach of the Contract by the CUSTOMER shall be considered as a waiver of any subsequent breach of the same or any other provision.





**20. Invalidation**

- 20.1 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or part, the validity of any other provisions of these Conditions and the remainder of the provision in question shall not be affected.

