

Infinity System Solutions Ltd

Terms and Conditions



1. Definitions

- 1.1 "Cancellation Fee": the fee payable by you in accordance with the provisions of condition 5.
- 1.2 "Confirmation of Order": means the letter sent by us confirming acceptance of your order.
- 1.3 "Credit Agreement": any credit agreement entered into between you and a Finance Company in connection with the purchase or rent of the Equipment or any part of it.
- 1.4 "Equipment": the Equipment supplied by us to you.
- 1.5 "Finance Company": any third party providing credit in connection with the purchase or rental of the Equipment or any part of it.
- 1.6 "Installation Works": the installation works necessary to install the Equipment at the Site in accordance with These Conditions.
- 1.7 "Interest Rate": 4 per cent above the base rate for the time being of Barclays Bank plc and both before and after any judgement.
- 1.8 "Price": means the purchase price of the Equipment specified overleaf.
- 1.9 "Maintenance Agreement": any agreement entered into between us and you for the maintenance of the Equipment.
- 1.10 "Site": the site specified overleaf at which the Equipment is to be installed or delivered (as the case may be).
- 1.11 "Standard Details Form": the form entitled "System Engineering and Installation Details" completed by you containing information about the specification of the Equipment together with the details of agreed installation and configuration of the Equipment.
- 1.12 "These Conditions": the terms and conditions set out below and any special terms and conditions agreed by us in writing.
- 1.13 "Third Party Agreement": an agreement between us and a Finance Company for the sale of Equipment which became the subject of a Credit Agreement.
- 1.14 "Warranty Period": 12 months
- 1.15 "we, us or our": Infinity System Solutions Limited.
- 1.16 "you or your" mean any person, firm or company acquiring or buying Equipment from us.
- 1.17 any reference in These Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended to the relevant time.
- 1.18 the headings in These Conditions are for convenience only and will not affect their interpretation.

2. The agreement between you and us

- 2.1 We intend relying upon These Conditions. If there is anything you do not understand or do not agree with please discuss this with us before you place your order.
- 2.2 When you receive our Confirmation of Order a legally binding agreement incorporating These Conditions will exist between you and us.
- 2.3 Neither we nor you shall be entitled to alter These Conditions without the agreement of the other.
- 2.4 Our employees or authorised agents are not permitted to make any representations concerning the Equipment or the Installation Works unless confirmed by us to you in writing. If we agree changes please ask us to confirm these in writing. We can then avoid problems over what was agreed between us.
- 2.5 For the avoidance of doubt the Standard Details Form forms part of the agreement between you and us and we will rely on the information provided by you in that document. In the event of inconsistency between These Conditions and the information set out in the Standard Details Form These Conditions shall prevail.
- 2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, or pricelist or other advertisement matter are intended merely to present a general idea of the Equipment.
- 2.7 All orders for Equipment shall constitute an offer by you to purchase or rent the Equipment pursuant to These Conditions.
- 2.8 All specifications, dimensions, descriptions and illustrations contained in any sales literature, quotation or pricelist or other advertisement matter are intended merely to present a general idea of the Equipment. We reserve the right from time to time to make changes to these provided that these changes will not materially affect the quality or fitness for purpose of the Equipment.

3. The Price and Payment

- 3.1 If you intend purchasing the Equipment the price if the Equipment shall be the Price.
- 3.2 If you intend renting the Equipment the rental payment plan will depend on:-
- 3.2.1 the value of the Equipment (referred to overleaf as "Capital Value");
- 3.2.2 the proposed rental term; and
- 3.2.3 the amount of any deposit you pay.
- 3.3 Our salesman will quote you a price for the Equipment and/or a rental payment plan and (where relevant) the Installation Works when visiting you pursuant to the provisions of condition 6.1.1.
- 3.4 You may (at your discretion) apply for credit from a Finance Company in connection with the purchase or rental of the Equipment. For the avoidance of doubt neither the agreement between you and us nor any Maintenance Agreement are conditional in any way on the completion of any Credit Agreement.
- 3.5 We will at your request enter into a Third Party Agreement. For the avoidance of doubt your payment obligations pursuant to These Conditions shall be extinguished only when we receive payment in full for the Equipment pursuant to any Third Party Agreement.
- 3.6 Your right to rent the Equipment is conditional upon:-
- 3.6.1 you entering a binding Credit Agreement; and
- 3.6.2 us receiving payment in full for the Equipment pursuant to a Third Party Agreement. Provided that if Conditions 3.6.1 and 3.6.2 are not satisfied you acknowledge and accept that you are required to purchase the Equipment (or any part of it for which credit cannot be obtained) pursuant to These Conditions and must pay to us a sum equivalent to the Capital Value (or a reasonable proportion of it to be determined by us, where you can only obtain credit for part of the Equipment) unless we agree to cancel this agreement in accordance with Condition 5.

4. Credit Applications

- 4.1 If you ask us to obtain credit on your behalf you give us an unconditional authority to submit an application on your behalf to such Finance Company(s) as we think fit.
- 4.2 Any application submitted pursuant to condition 4.1 shall constitute an unconditional offer by you to take credit and capable of acceptance by the Finance Company.
- 4.3 The authority given to us in condition 4.1 can only be withdrawn in writing and you are legally bound to any Credit Agreement entered into prior to written notice being received by us.

5. Cancellation

- 5.1 The agreement between you and us can only be cancelled with our consent which we can withhold in our absolute discretion. Cancellation of any Finance Agreement does not affect your liability under your agreement with us.
- 5.2 We may agree to the cancellation of the agreement on condition that you pay us a Cancellation Fee. For the avoidance of doubt receipt by us of the Cancellation Fee in cleared funds is a pre-condition to your liability under the agreement coming to an end.
- 5.3 The Cancellation Fee will be a reasonable sum having regard to:-
- 5.3.1 cancellation of any installation date previously agreed with you;
- 5.3.2 administration costs incurred by us prior to or in connection with cancellation; and
- 5.3.3 any profit we lose by reason of cancellation.
- 5.4 We shall be entitled to deduct the whole or any part of the Cancellation Fee from any deposit we have received from you.
- 5.5 Where we encounter unforeseen problems during the Installation Works as set out in condition 9, you are entitled to cancel agreement between you and us provided that:-
- 5.5.1 in the event of cancellation of an agreement to purchase the Equipment you must pay us the balance of the Price of the Equipment.
- 5.5.2 in the event of cancellation of an agreement to rent the Equipment you must pay us the Capital Value.
- 5.6 If you fail to enable access to the Site on more than one occasion (or if we reasonably conclude that we will be unable to access the Site) we will be entitled to cancel the agreement between you and us on written notice from us to you. On receipt of this notice, you must pay the balance of the price for the Equipment which you can collect from us at any time on reasonable notice.

6. Access to the Site

- 6.1 To enable us to complete the supply and/or installation of the Equipment we will need access to the Site on at least two occasions:-
- 6.1.1 firstly when our salesman visits you and takes your order for the Equipment; and
- 6.1.2 secondly for the purposes of installing the Equipment.
- 6.2 We reserve the right to return to the Site more often than is envisaged in condition 6.1 to the extent that is necessary to enable us to complete the Installation Works.
- 6.3 We will give you a general indication of the time we will visit though you appreciate that this is to an extent dictated by the length of other appointments which may overrun. If you have given us a contact number we will attempt to contact you to inform you either that we will be late for our appointment or will be unable to keep our appointment. Under no circumstances will we be liable to you for any losses you suffer by reason of any delay to or cancellation of any appointment.

7. Consents and Approvals

- 7.1 It is your responsibility to ensure that all necessary consents and approval are obtained in respect of the Equipment and/or the Installation Works including those of any landlord or local or other authority.
- 7.2 Under no circumstances will we be liable to you for any loss you suffer by reason of your failure to obtain the necessary consents and approvals.

8. Delivery and installation of the Equipment

- 8.1 Subject to conditions 8.6 and 8.7 we will deliver and install the Equipment at the Site.
- 8.2 If the Equipment is not in accordance with the agreement between you and us by reason of any shortage, defect, damage or failure to comply with description then this shall be made good by us by replacing the Equipment or if we prefer (at our discretion) we will refund the price to you when we collect the Equipment (which we will do as quickly as reasonably possible). If we decide to replace any Equipment we will do this causing as little inconvenience to you as reasonably possible.
- 8.3 Any dates we give you for delivery and installation of the Equipment are approximate only. We will do all that we can to meet any date we give you. In the event we are unable to do so we will contact you to agree an alternative date. The Equipment may be delivered and fitted by us in advance of any estimated delivery date upon reasonable notice.
- 8.4 We cannot be held responsible for any inconvenience or loss you suffer as a result of our failure to deliver and install the Equipment on any estimated delivery date which could reasonably be considered to be out of our control.
- 8.5 We reserve the right to charge a reasonable fee for any installation date that you cancel once a date has been agreed. You must pay this to us before we will make any further attempt to deliver and install the Equipment.
- 8.6 It is your responsibility to ensure your own availability once an installation date has been agreed. It is also your responsibility to ensure there is adequate access to the Site. If either you or someone on your behalf is not available or if as a result of inadequate access for any reason we are unable to deliver and install the Equipment then at our absolute discretion we may on reasonable notice arrange a further attempt to deliver and install the Equipment.
- 8.7 If upon the second installation date we are still unable to gain access to the Site to install the Equipment or if we reasonably conclude at any time we will be unable to do so without prejudice to all other rights available to us we may rely on the rights given to us under condition 5.6.
- 8.8 The Equipment will be at your risk;
- 8.8.1 on delivery of the Equipment where we are not installing it; or
- 8.8.2 on completion of the Installation Works; or
- 8.8.3 on the date of notice of cancellation given under conditions 5.5 and 5.6

9. Unforeseen problems during Installation Works

- 9.1 Whilst undertaking the Installation Works it is possible that problems could arise which could not reasonably have been identified during the course of our survey of the Site which may mean that:-

11. Ownership of the Equipment

- 11.1 Subject to condition
- 11.2 ownership of the Equipment will not pass to you until we have received in cash or cleared funds payment in full of the Price together with any other charges you are required to pay.
- 11.2 Where you have chosen to enter into a Third Party Agreement, title to the Equipment will pass to the third party with whom the agreement is made upon receipt by us of payment in full of the price of the Equipment and Installation Works from that third party.
- 11.3 Where the agreement between you and us has been cancelled for any reason, unless you have paid for the Equipment in full, the Equipment will become our property (where ownership has already been transferred to you) though you must take reasonable care of the Equipment until we have collected it from you. You also promise to give us a right of access to the Site to enable us to collect the Equipment. If we cannot access the Site and/or collect the Equipment for any reason you must indemnify us in respect of all our losses arising as a result.

12. Bringing a Claim

- 12.1 We ask that you inspect the Equipment and/or the Installation Works as soon as reasonably possible. You must notify us within 5 working days of delivery or (where appropriate) completion of the Installation Works of any alleged defect, shortage in quantity, damage or failure to comply with description. You must allow us an opportunity to inspect the Equipment and the Installation Works within a reasonable time after you notify us of your claim. If you fail to comply with these provisions, the Equipment and (where appropriate) the Installation Works will be conclusively presumed to be in accordance with the agreement between you and us and free from any defect or damage which would be apparent on a reasonable examination and you will be deemed to have accepted the Equipment and (where appropriate) the Installation Works.
- 12.2 If the equipment or Installation Works are not in accordance with the agreement between you and us for any reason we will make good any shortage defect damage or failure to comply with description by replacement or repair. We promise to do this by causing as little inconvenience to you as reasonably possible.
- 12.3 We will not repair or replace either if it is impossible to do so or if we consider to do this would be excessive having regard to the value of the Equipment; the nature of the defect and the extent of inconvenience likely to be caused.
- 12.4 If we decide not to repair or replace for any of the reasons specified in condition 12.3 we will refund an appropriate amount of the price.

13. Warranty

- 13.1 Subject to the provisions of condition 13.2 we warrant that at the date of installation and throughout the Warranty Period the Equipment is and will remain in good working order and fit for the purpose for which it is required and all other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Equipment, whether express or implied by statute or common law or otherwise are excluded to the fullest extent permitted by law.
- 13.2 The warranty in condition 13.1 shall not extend to;
- 13.2.1 modifications or additions to the Equipment;
- 13.2.2 peripheral items and consumables (lists of which are available from us);
- 13.2.3 defects resulting, in our reasonable opinion, from misuse or neglect of or accident to the Equipment or failure to follow our instructions or advice or that of the Equipment manufacturer;
- 13.2.4 the Equipment being subjected to abnormal physical or electrical stress, including power surges and strike by lightning;
- 13.2.5 the Equipment being damaged due to accident, neglect, misuse by you, acts of God, failure or fluctuation of electrical power or causes other than ordinary use; and
- 13.2.6 any failure or defective working of the Equipment due to any fault, failure or change in the electrical supply and/or Network service and connections and/or host PABX systems.

14. The extent of our liability to you

- 14.1 In the event of any breach of These Conditions, your remedies will be limited to the remedies specified in These Conditions or to damages. In the event you are awarded damages under no circumstances will our liability exceed;
- 14.1.1 the Price if you are purchasing the Equipment; or
- 14.1.2 the Capital Value if you are renting it.
- 14.2 We shall not in any event be liable to you for any indirect loss and/or expense (including loss of profits) suffered by you as a result of any breach by us of These Conditions.
- 14.3 We will not be liable to you or deemed to be in breach of These Conditions by reason of any delay in performing, or any failure to perform, any of our obligations in relation to the Equipment or the Installation Works, if the delay or failure was due to any cause beyond our reasonable control. The following shall be regarded as a non-exhaustive list of causes beyond our reasonable control:-
- 14.3.1 act of God, explosion, flood, tempest, fire or accident;
- 14.3.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 14.3.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 14.3.4 strikes, lockouts or other industrial action or trade disputes whether involving our employees or those of any third party;
- 14.3.5 difficulties in obtaining raw materials, labour, fuel, parts or machinery; and
- 14.3.6 power failure or breakdown in machinery.

15. General

- 15.1 No waiver by us or any breach of These Conditions shall be considered as a waiver of any subsequent breach of the same or any other provision of These Conditions.