

TERMS AND CONDITIONS OF PURCHASE

relating to Goods and Services

1. DEFINITIONS

In these Conditions, the following definitions apply:

Bribery and Corruption Legislation	means any applicable law, regulation, guidance and/or codes of practice relating to the prohibition, prevention, and/or the creation of offences in respect of, bribery, fraudulent acts and/or acts of corruption in any country that may be applicable to the Goods or Services (including the Bribery Act 2010);
Company	means Texecom Limited (registered no 02084170) and it's Subsidiaries trading as Texecom;
Conditions Contract	means these terms and conditions;
	means the agreement for the supply of Goods and/or Services, as referred to in Clause 2 below, comprising these Conditions, the Order, the Specification and any additional terms agreed in writing between the Company and the Seller; means any breach of the obligations of the Company under the Contract or any other default, act, omission, negligence or statement of the Company, its employees, servants, agents or sub-contractors in connection with or in relation to the subject-matter of the Contract and in respect of which the Company is liable to the Seller;
Deliverables	means any item provided or to be provided by the Seller to the Company in the performance of the Services including drawings, plans, diagrams, designs, pictures, reports and software;
Good Industry Practice	means the exercise of that degree of skill, care and consideration, prudence, efficiency, foresight and timeliness as would be expected from a leading supplier of goods and/or services of the same or a similar nature to the Goods and/or Services;
Goods	means the goods (or any part of them) ordered by the Company pursuant to an Order;
IPR Claim	means any claim that the use and/or resale of any Goods and/or Deliverables and/or receipt of the Services, infringes the intellectual property rights of any third party;
Losses	means any damages, liabilities, claims, demands, proceedings, actions, costs, charges, losses and/or expenses including legal fees and other professional costs;
Order Seller	means the Company's order for the Goods and/or Services; means the person to whom the Order is addressed, unless otherwise stated in the Contract;
Services	means the services (if any) described in the Contract or ancillary to the sale of the Goods;
Specification	includes any specifications, samples, plans, drawings, data or other information against which the Goods and/or Services are to be supplied;
Warranty Period	means the longer of: a. 12 months from the date of the Company's written acceptance of the Goods and/or Deliverables and/or Services (as the context requires); b. 12 months commencing from the end of the calendar month in which the expiry of 28 days from delivery of the Goods or performance of the Services in full, occurs; c. the shelf life of the Goods and/or Deliverables; or d. any period implied by law.

2. BASIS OF PURCHASE

- 2.1 Each Order constitutes an offer by the Company to purchase Goods and/or Services from the Seller on and subject to these Conditions (and any additional terms agreed in writing between the Company and the Seller (including in the Order)).
- 2.2 Each Order will be deemed to be accepted by the Seller on the earlier of:
 - 2.2.1 the Seller issuing written acceptance of the Order; and
 - 2.2.2 any act by the Seller consistent with fulfilling the Order,at which point and on which date the contract between the Company and the Seller for the supply of the Goods and/or Services in accordance with the relevant Order and these Conditions will come into existence (**Contract**).
- 2.3 The Conditions of the Contract will apply to the exclusion of any other terms and conditions the Seller seeks to impose or incorporate, or which are, or may be, implied by trade, custom, practice or course of dealing. The Seller acknowledges that acceptance of an Order is on the basis that these Conditions will apply.
- 2.4 No Order for Goods and/or Services from the Company shall be binding on the Company unless the Company has provided a purchase order number.
- 2.5 No variation of these Conditions or any Contract will be effective unless made in writing by duly authorised representatives of both parties.
- 2.6 If these Conditions are inconsistent with any part of the remainder of the Contract, these Conditions will prevail unless the term to be overridden is specifically identified and the intention for the Contract to amend these Conditions is clearly expressed in written form.

3. PRICE AND PAYMENT

- 3.1 The price of the Goods and/or Services will be as stated in the Order. No increase in the price may be made unless agreed in writing. Prices will be invoiced in sterling unless agreed otherwise in the Contract.
- 3.2 The price of the Goods and/or Services will be inclusive of all charges for labour, packing, shipping, delivery and all other costs and duties but exclusive of value added tax, unless otherwise stated in the Contract.
- 3.3 Invoices must state an Order or Contract number for reference (**Reference Number**), and be sent to the address(es) notified to the Seller by the Company from time to time. No invoice may be submitted until the Goods have been delivered or the Services have been fully performed in accordance with the Contract.
- 3.4 Invoices will be paid in line with agreed terms upon receipt by the Company of a valid invoice suitable for VAT purposes.

4. DELIVERY

- 4.1 The Goods and Deliverables will be delivered to, and the Services will be performed at the Company's required location (**Location**), on the date or within the period stated in the Contract, in either case during the Company's usual business hours. Furthermore, as part of the Services,

the Seller will provide any and all associated services and activities that are not specifically referred to in the Contract or the Specification but which are required for the proper and efficient provision of the Services.

- 4.2 The Company may amend the Order by written notice to the Seller at any time prior to delivery of the Goods or full performance of the Services. The Seller will comply with all amendments to the Order made in accordance with this Clause 4.2.
- 4.3 The Seller will notify the Company immediately should the Seller become aware of any circumstances, that will or may have an adverse impact on the Seller's ability to provide the Goods and/or Deliverables and/or perform the Services, in accordance with the Contract.
- 4.4 The Company will not be required to accept delivery of Goods or performance of Services in instalments, unless otherwise agreed in writing. If the Goods are agreed to be delivered or the Services are to be performed in instalments, each instalment will together be deemed to comprise one single agreement and the Contract will not be severable in respect of each such instalment.
- 4.5 The Seller will ensure that:
 - 4.5.1 Goods are properly packed and secured in such manner as to enable them to reach their delivery destination in good condition and are adequately protected against damage and deterioration in transit; and
 - 4.5.2 each delivery of Goods is accompanied by a delivery note quoting and displaying prominently, the Reference Number, the description, type and quantity of the Goods, special storage instructions (if any) and, if the Goods are agreed as being capable of delivery by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.6 The Seller will ensure that, at all times, it has and maintains all licences, permissions, authorisations, consents and permits necessary for it to perform its obligations under the Contract and for the Seller to provide the Goods and Services to the Company.
- 4.7 The Seller will inform the Company of all licences, permissions, authorisations, consents and permits necessary for it to receive the Goods and Services from the Seller.

5. RISK AND TITLE

- 5.1 Risk and title to the Goods and Deliverables will pass to the Company upon delivery of the Goods or Deliverables (as the context requires), in accordance with these Conditions. The passing of risk and title will not prejudice any rights of the Company.

6. REJECTION AND TESTING

- 6.1 Without prejudice to any of the Company's other rights or remedies, the Company may at any time test and/or inspect any and all of the Goods and/or Deliverables.
- 6.2 If following such inspection and/or testing the Company consider that the any of the Goods and/or Deliverables do not conform or are unlikely to conform to the requirements of the Contract, the Company will be entitled to reject such Goods and/or Deliverables (or part thereof) which do not conform to or are unlikely to conform to, the Contract.
- 6.3 Any Goods or Services rejected in accordance with this Clause 6 will at the Company's sole discretion be collected by the Seller from the Company (or a third party acting on behalf of the Company), returned to the Seller by the Company or corrected or re-performed by the Seller, at the Seller's cost and risk.
- 6.4 Any inspection or testing of the Goods and/or Services and/or Deliverables, acceptance of defective, late or incomplete Goods and/or Services and/or Deliverables or any payment made, will not be deemed to be acceptance of the Goods and/or Services and/or Deliverables or a waiver of any rights the Company may have.

7. WARRANTIES AND LIABILITY

- 7.1 The Seller warrants and represents to the Company that at the time of delivery of the Goods and/or Services and/or Deliverables, the Seller possesses good and transferable title to the Goods and/or Deliverables.
- 7.2 In addition to the terms and duties implied by law, the Seller warrants to the Company that throughout the Warranty Period the Goods and/or Services and/or Deliverables:
 - 7.2.1 are free from defects in design, material and workmanship;
 - 7.2.2 correspond with their description, any applicable Specification and any samples provided by the Seller;
 - 7.2.3 are suitable for any purpose expressly or by implication made known to the Seller; and
 - 7.2.4 comply with all relevant statutory requirements and regulations.
- 7.3 The Seller will provide the Goods and Deliverables and perform the Services and its other obligations under the Contract at all times in accordance with applicable law, Good Industry Practice and using appropriately qualified and trained personnel.
- 7.4 If any Goods and/or Deliverables and/or Services are not supplied or performed in accordance with the Contract, the Company will (without prejudice to any of its other rights or remedies) be entitled to exercise, any one or more of the following rights (whether or not it has accepted the Goods, any Services and/or any Deliverables):
 - 7.4.1 to require the Seller to: (a) repair or replace the Goods and/or Deliverables, at the Seller's cost; or (b) correct or re-perform the Services, at the Seller's cost;
 - 7.4.2 refuse to accept any subsequent performance of the Services and/or delivery of the Goods and/or Deliverables which the Seller attempts to make;
 - 7.4.3 to terminate the Contract immediately by written notice to the Seller upon which the Seller will repay any sums paid to it by the Company under the Contract in respect of the non-compliant Goods, Services and/or Deliverables; and/or
 - 7.4.4 recover from the Seller any costs and expenses incurred by the Company in obtaining substitute goods and/or deliverables and/or services from a third party in excess of the price the Company would have paid the Seller for the Goods and/or Deliverables and/or Services (as the context requires) and/or otherwise making good, repairing, replacing, or reinstating or re-performing the relevant item or items in question.
- 7.5 Nothing in the Contract will operate to exclude or restrict the Company's or the Seller's liability:
 - 7.5.1 for death or personal injury caused by its (or its agent's or sub-contractor's) negligence or for fraud or fraudulent misrepresentation;
 - 7.5.2 for 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;
 - 7.5.3 for the abandonment of the Contract; or
 - 7.5.4 for any other liability that cannot, as a matter of law, be limited or excluded.
- 7.6 Subject to Clause 7.5, the Company's total liability (including costs and expenses) arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, for all Defaults (when taken together and not for each and every Default) shall in all circumstances not exceed the amount paid or payable under the Contract.
- 7.7 Subject to Clause 7.5 above, the Company will not be liable to the Seller for any indirect, special or consequential loss.

7.8 These Conditions will extend to any substituted or remedial services and/or repaired or replacement goods and/or deliverables supplied by the Seller.

7.9 The Seller will not do or omit to do anything which may cause the Company to lose any license, authority, consent or permission on which it relies for the purposes of conducting its business, and the Seller acknowledges that the Company may rely or act on the Services.

8. INDEMNITY

8.1 The Seller will at all times during and after the term of the Contract, on written demand, indemnify the Company in full against all Losses incurred by, awarded against or agreed to be paid by the Company arising from out of, or in connection with:

- 8.1.1 any breach by the Seller of the Contract and/or any act, omission or negligence of the Seller, its employees, agents or subcontractor and/or any defects in Goods, Services or Deliverables;
- 8.1.2 an IPR Claim; and/or
- 8.1.3 any claim made against the Company by a third party for death, personal injury or damage to property arising out of or in connection with defective Goods and/or Services.

8.2 The Seller will maintain an adequate level of insurance in respect of its potential liability arising under or in connection with the Contract with a reputable insurance provider.

9. SERVICES PERFORMED ON SITE

9.1 Whilst on the Company's premises the Seller will comply with all site rules and policies of the Company and all health, safety and environmental requirements and industry standards.

9.2 The Seller acknowledges that all Seller equipment at the Company's premises will remain at the Seller's risk and it will be the Seller's responsibility to insure such equipment against all risk of loss or damage. The Company will not be liable for any loss of or damage to the Seller's equipment whilst at the Company's premises, however caused, including through the Company negligence.

10. SPECIFICATIONS

10.1 Where the Company directs the Seller to produce, develop or follow specific or bespoke instructions in the Specifications to produce the Goods and/or Deliverables (**Works**), all intellectual property rights in and to such Works will be the exclusive property of the Company.

10.2 The Seller assigns (including, where relevant, by way of present assignment of future rights) with full title guarantee and free of all third party rights, all intellectual property rights in and to the Works. The Seller hereby waives all moral rights in any such Works.

11. CONFIDENTIALITY

11.1 Each party to the Contract undertakes that it will not at any time either during the Contract or after its termination disclose to any person any confidential information concerning the business affairs, customers, clients, suppliers or product formulations and processes of the other party (**Confidential Information**) (or any members of its group) save:

- 11.1.1 to its employees, officers or contractors who need to know such information for the purposes of carrying out the party's obligations under the Contract; or
- 11.1.2 as may be required by law, court order or any legal or regulatory authority.

12. TERMINATION

12.1 The Company may terminate the Contract by written notice to the Seller at any time prior to delivery of the Goods or full performance of the Services.

12.2 The Company may immediately terminate the Contract at any time if:- (i) the Seller is in breach of any of its material obligations under the Contract; or (ii) the Seller becomes insolvent, is unable to pay its debts, ceases to trade or has an administrator appointed or has a receiver appointed over the whole or any part of its assets or enters into any arrangements with its creditors for the rescheduling of its debts or a petition is filed or a resolution is passed for winding up, or there is the occurrence of any event in respect of the Seller that is analogous to any of the preceding events, in any jurisdiction.

12.3 The provisions that relate to termination or cancellation will apply to a termination or cancellation of all or any part of the Contract or Order.

12.4 Upon termination of the Contract:

- 12.4.1 the Seller will immediately return all Specifications supplied by the Company pursuant to Clause 10 and any other information or materials which belong to or were supplied by the Company, including any Confidential Information of the Company;
- 12.4.2 Clauses 6, 8, 11 and 13 of these Conditions and any other Clauses which expressly or by implication have effect after termination or cancellation, will continue in full force and effect; and
- 12.4.3 the accrued rights, remedies, obligations and liabilities of the parties as at termination or cancellation, shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or cancellation.

13. REACH

13.1 The Seller is and remains solely responsible for the full compliance of delivered Goods and Deliverables, parts of Goods and Deliverables and substances, with the requirements of Regulation (EC) No.1907/2006 (**REACH**) as amended or varied and including all further releases as well as any national regulations issued in execution of this regulation.

13.2 The Seller represents and warrants that all its obligations under REACH with regards to the Goods and Deliverables have been fulfilled. The Seller represents and warrants that each chemical substance constituting or contained in the Goods or Deliverables or parts of the Goods or Deliverables delivered to the Company is pre-registered or registered, that the stated uses of the Goods and Deliverables are registered and that any intended uses which the Company informs the Seller it will use the Goods and Deliverables for, are registered.

13.3 The Seller will notify the Company at least 12 months in advance of any change to the composition of any Goods and/or Deliverables or any change in the site of manufacture of the Goods and/or Deliverables.

13.4 The Seller will provide comprehensive safety data sheets as required where necessary under REACH and the information to be provided under Article 32 and 33 REACH where applicable.

13.5 The Company reserves the right to terminate any Order and the Seller will repay to the Company any sums paid in respect of such Orders if the Seller does not comply with any of its obligations under REACH.

13.6 The Seller will indemnify the Company for any loss it suffers as a result from any act or omission of the Seller resulting in non-compliance with any of its obligations under REACH and undertakes to exempt and hold the Company harmless from any claim, liability, loss, damage or judgement resulting from any such non-compliance.

14. PREVENTION OF CORRUPTION AND SLAVERY

14.1 The Seller will:

- 14.1.1 not offer or agree to give any person working for or engaged by the Company any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to the Contract, or any other agreement between the Seller and the Company, including its award to the Seller and any of the rights and obligations contained within it;
- 14.1.2 not enter into the Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Company by or for the Seller, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Company before execution and or commencement of the Contract;
- 14.1.3 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and
- 14.1.4 otherwise comply at all times with the Company's anti-bribery and anti-corruption policy from time to time and with all Bribery and Corruption Legislation.

14.2 If the Seller and/or its subcontractors (including the Seller's and any such subcontractor's employees, agents and subcontractors employed or engaged in the performance of the Contract, in all cases whether or not acting with the Seller's knowledge) breaches Clause 14.1 above, the Company may terminate the Contract by written notice with immediate effect.

14.3 Any dispute relating to the interpretation of Clause 14.1 or 14.2 above or the amount or value of any gift, consideration or commission will be determined by the Company and the decision will be final and conclusive.

14.4 In performing its obligations under the Contract, the Seller shall:

- 14.4.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;
- 14.4.2 have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance;
- 14.4.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
- 14.4.4 include in its contracts with its direct subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this Clause 14.

14.5 The Seller represents and warrants that neither the Seller nor any of its officers, employees or other persons associated with it:

- 14.5.1 has been convicted of any offence involving slavery and human trafficking; and
- 14.5.2 to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

14.6 The Seller shall implement due diligence procedures for its direct subcontractors, and suppliers, to ensure that there is no slavery or human trafficking in its supply chains.

14.7 The Seller shall notify the Company as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.

14.8 The Seller shall:

- 14.8.1 maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Customer in connection with the Contract; and
- 14.8.2 permit the Customer and its third party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this Clause 14.8.2, to have access to and take copies of the Supplier's records and any other information and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations this clause.

14.9 The Seller shall indemnify the Company against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the Company as a result of any breach of its obligations under this Clause 14.

15. GENERAL

15.1 The Seller will not assign, transfer, charge, hold on trust for another or deal in any other manner with any of its rights or obligations under the Contract, nor purport to do so, nor sub-contract any or all of its obligations under the Contract without the prior written consent of the Company.

15.2 The Company may, at any time and without limiting any of its other rights or remedies, set off any liability of the Seller to the Company against any liability of the Company to the Seller, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. The Company will inform the Seller in writing of any set-off carried out by the Company pursuant to this Clause 15.2.

15.3 Any notice to be given will be in writing, and will be sent to the Company at its registered office address in relation to the Contract.

15.4 Any failure to exercise or delay by a party in exercising a right or remedy arising in connection with the Contract will not constitute a waiver of such right or remedy or of any other rights or remedies.

15.5 Any modification to or deletion of a provision or part-provision under the Contract due to it being invalid, illegal or unenforceable will not affect the validity and enforceability of the rest of the Contract.

15.6 The Seller will comply with all policies and procedures of the Company notified by the Company to the Seller from time to time.

15.7 These Conditions, together with those set out in the Contract, constitute the entire agreement and supersede all previous agreements between the parties in respect of the subject matter of the Contract.

15.8 The Seller will, promptly at the Company's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Company may from time to time require for the purpose of securing for the Company the full benefit of the Contract.

15.9 A person who is not a party to this agreement will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

15.10 These Conditions and each Contract will be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of England and Wales.

15.11 The Seller will hold all materials, equipment and tools, drawings, specifications and data supplied by the Company to the Seller (Company Materials) in safe custody at its own risk, maintain the Company materials in good condition until returned to the company, and not dispose or use the Company materials other than in accordance with the Company's written instructions or authorisation.