



# Centrix

Conditional Contract of Sale

## Customer Site Details

Company Name:	Registration No:	
Contact Name & Title:	Email:	
Company Address:		
Postcode:	Telephone:	Fax:

## Billing Address (if different from above)

Company Name:	Email:	
Company Address:		
Postcode:	Telephone:	Fax:

## Comments and Special Requirements



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### Centrix Standard Terms & Conditions

#### 1.0 DEFINITIONS

- 1.1 "Buyer" means the person who buys or agrees to buy the Product from the Seller who shall be responsible for payment of the Price and any other monies payable hereunder.
- 1.2 "Conditions" means the Terms and Conditions of Sale set out in this document and any special terms and conditions agreed in writing by the Seller.
- 1.3 "Consumer" means a "consumer" within the meaning of section 12 of the Unfair Contract Terms Act 1977, as amended, ("UCTA"), and as at the date of hereof the Buyer will not be deemed to be a consumer within the meaning of UCTA if (i) the Product is of a type ordinarily supplied for private use and/or (ii) the Buyer is purchasing the Product in the ordinary course of its business.
- 1.4 "Contract" means any contract for the purchase of any Product by the Buyer from the Seller, which shall be subject to these Conditions.
- 1.5 "Delivery Date" means the date notified by the Seller to the Buyer when the Product is to be delivered.
- 1.6 "Price" means the price for the Product together with any applicable VAT and for any carriage packing and/or insurance costs as set out in the Seller's quotation to the Buyer. Unless otherwise expressly stated, prices given on quotation shall be exclusive of VAT.
- 1.7 "Product" means those telecommunication and ancillary products which the Buyer agrees to buy from the Seller as described in the quotation supplied herewith.
- 1.8 "Seller" means Centrix Ltd
- 1.9 "Specification" means the specification for the Product as provided by the Seller to the Buyer and which is deemed to have been accepted by the Buyer (subject only to any changes agreed in writing by the Seller) and is incorporated into the contract for the purchase of the Product.

#### 2.0 BASIS OF THE SALE

- 2.1 The seller shall sell and the Buyer shall purchase the Product in accordance with any written order of the Buyer which is accepted by the Seller, subject to the Conditions.

#### 3.0 ORDERS AND SPECIFICATIONS

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.
- 3.2 The Seller reserves the right to make any changes in the Specification of the Product which are required to conform with any applicable statutory requirements or which do not materially adversely affect the quality or fitness for purpose of the Product.
- 3.3 The Seller warrants that, subject to clause 3.2, the Product shall comply with the Specification in all material respects.
- 3.4 Except to the extent that the Buyer is a Consumer, the Seller hereby excludes to the fullest extent permitted by law all warranties and conditions implied by statute or otherwise save those expressly set out in these Conditions and those implied by section 12 of the Sale of Goods Act 1979 (s.12 being an implied term that the Seller has good title to the goods it is selling).
- 3.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

#### 4.0 TERMS OF PAYMENT

- 4.1 Unless otherwise agreed in writing between the Seller and Buyer, the Price shall be due and payable from the Buyer to the Seller as follows:  
One third of the Price at the time of placing the order this amount being due for payment immediately notwithstanding 4.2 below. The balance of the Price payable in 36 monthly instalments each such monthly instalment to be paid on or before the [insert date] of each calendar month. The first monthly instalment is due and payable on or before the [insert date] of the calendar month following the month in which the order for the Product is accepted by the Seller with the remaining 35 monthly instalments becoming due and payable one each month on each of the next 35 consecutive months on the [insert date] of the relevant month. The 36 monthly instalments shall be equal provided that the 36th instalment may vary marginally due to an inability to divide the instalments equally.
- 4.2 The Seller shall also be entitled to recover any reasonable additional costs incurred as a result of the Buyer's delay. Payments shall be made on or before the 21st day following the date of the Seller's invoice and payment shall not be prevented by minor defects which do not materially affect operational use, but the Seller shall remedy such defects within a reasonable time where it is the Seller's responsibility to do so.
- 4.3 If the Buyer fails to make any payment on or before the due date then, without prejudice to any other right or remedy available to the Seller, the Seller may:  
Terminate the contract or suspend any further deliveries to the Buyer pending payment of all amounts due;  
Charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of three (3) per cent per annum above National Westminster Bank base rate from time to time, from the time payment is first due until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);  
Recover such sums by deduction of monies otherwise due by the Seller to the Buyer, its parent company, subsidiaries or associates; and/or  
Enter onto the Buyer's premises and recover the Product delivered or installed. In such event the Seller shall return any sums previously paid less sums reasonably incurred by it in the delivery, installation and recovery of the Product including depreciation in the Product's subsequent resale value.
- 4.4 Time for payment shall be of the essence.
- 4.5 The Buyer shall make all payments due in full without any deduction whether by way of set off, counterclaim, discount or abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to or greater than such deduction to be paid by the Seller to the Buyer.

- 4.6 If the Buyer fails to make any payment on or before the due date then, without prejudice to any other right or remedy available to the Seller, the Seller reserves the right exercisable by giving written notice to the Buyer to elect that the remainder of the Price shall become payable immediately and shall be entitled to suspend its performance of the Contract until such time as payment of the Price has been made in full.
- 4.7 The Buyer accepts that an early termination clause allows the customer to end the contractual agreement any time after the initial year, but is liable to a fee equal to the outstanding payments.

#### 5.0 DELIVERY

- 5.1 Any dates quoted for delivery of the Product are approximate only and the Seller shall not be liable for any delay in delivery of the Product howsoever caused. Time for delivery shall not be of the essence.
- 5.2 If the Seller fails to deliver the Product for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault (in which in both cases the Seller shall have no liability) and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to, at the discretion of the Seller, either replacing the Product within a reasonable period of time or issuing a credit note against any invoice raised in respect of the non delivered Product.
- 5.3 Unless otherwise agreed in writing between the Buyer and the Seller, the Price shall include installation by the Seller of the Product at the Buyer's premises (being the Buyer's premises for the purpose of delivery). The Seller shall perform such installation services with reasonable care and skill and shall use its reasonable endeavours to complete the installation in accordance with the time scale previously agreed between the parties, and in the absence of any express agreement as to time, within a reasonable time following delivery of the Product.

#### 6.0 ACCEPTANCE OF THE PRODUCT

- 6.1 The Buyer shall be deemed to have accepted the Product seven (7) days after delivery to the Buyer.
- 6.2 After acceptance or deemed acceptance the Buyer shall not be entitled to reject Product which is not in accordance with the Contract.

#### 7.0 DEFECTS

- 7.1 The Seller will, at its option, either make good by repair or the supply of a replacement, defects which, under proper use, appear in the Product within a period of 6 months after the Product has been delivered, provided that:
- 7.1.1 The Buyer notifies the Seller in writing of the claimed defects immediately on their appearance; and
- 7.1.2 The Seller is satisfied that the defects arise solely from faulty design (other than a design made, furnished or specified by the Buyer), materials or workmanship; and
- 7.1.3 the Product claimed to be defective is returned to the Seller at the expense of the Buyer.
- 7.2 The repaired or replacement Product will be delivered to the Buyer to the original place of delivery, but otherwise subject to the provisions of these Conditions.
- 7.3 As an alternative to clause 7.1, the Seller shall be, in its absolute discretion, entitled to return the Price to the Buyer if the Buyer has already paid the Price when the claimed defect is notified by the Buyer to the Seller.
- 7.4 In the event that the Seller exercises its rights pursuant to clause 7.3, the Seller shall have the right to deduct from the Price it returns to the Buyer any amount which it considers, acting reasonably, reflects a reasonable amount in consideration for the benefit which the Buyer has had, or should have had, since delivery to the Buyer of the Product.
- 7.5 The remedy provided in this clause 7 is without prejudice to the other provisions of these Conditions, including, without limitation, clause 10 above.

#### 8.0 RISK AND PROPERTY

- 8.1 Risk and damage to or loss of the Product shall pass to the Buyer at the time of delivery to the Buyer's designated address or, if the Buyer wrongfully fails to take delivery of the Product, the time when the Seller has tendered delivery of the Product.
- 8.2 Notwithstanding delivery and the passing of risk in the Product, or any other provision of these Conditions, property in the Product shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the Price of the Product and all other sums which are or which become due to the Seller from the Buyer in respect of any goods agreed to be sold by the Seller to the Buyer.
- 8.3 Until such time as the property in the Product passes to the Buyer, the Buyer shall hold the Product as the Seller's fiduciary agent and bailee, and shall keep the Product separate from those of the Buyer and third parties and properly stored and identified as the Seller's property, and properly protected and insured at their full market value in the joint names of the Seller and the Buyer. Until that time the Buyer shall be entitled use the Product in the ordinary course of its business or subject to clause 7, to resell the Product, but shall account to the Seller for the proceeds of sale or otherwise of the Product, and whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 8.4 Until such time as the property in the Product passes to the Buyer (and provided the Product are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Product to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Product are stored and repossess the Product.
- 8.5 The Buyer shall not be entitled to mortgage, charge, pledge or otherwise encumber or allow the creation of any charge or lien over any of the Product which remains the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

#### 9.0 DEALINGS WITH OR AFFECTING THE PRODUCT

- 9.1 Notwithstanding any other provision to the contrary, until such time as the Seller has received payment in full of the Price of the Product the Buyer shall:
- 9.1.1 keep the Product in its own possession at the designated address for delivery or at such other location as the Seller may agree in writing provided that the Buyer retains possession at all times;
- 9.1.2 not sell or offer for sale, transfer, assign, lease, lend or otherwise deal with the Product or any interest in the Product;
- 9.1.3 not mortgage, charge, pledge nor otherwise encumber or allow the creation of any charge or lien over the Product;

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9.1.4 not without the prior written consent of the Seller, attach the Product to any land or building so as to cause the Product to become a permanent or immovable fixture on such land or building;

9.1.5 keep the Product at its own expense and at all times in good repair and condition and working order properly serviced and maintained and at its own cost and expense obtain and fit all such new parts as shall from time to time be required and if any part of the Product is destroyed damaged or lost at its own cost and expense to repair and replace it;

9.1.6 ensure that if the Product is or becomes affixed to land or building the Product shall be capable of being removed without material injury to such land or building and to take all necessary steps to prevent title to the Product from passing to the landlord of such land or building;

9.1.7 to repair and make good any damage caused by the affixation of the Product to or their removal from any land or building (whether such affixation or removal is effected by the Buyer or the Seller) and to indemnify the Seller against all loss, damage or liability it may incur or sustain as a result of such affixation or removal;

9.1.8 keep the Product insured at their full market value with full comprehensive or all-risks cover with insurers to be approved by the Seller (such approval not to be unreasonably withheld or delayed) and under a policy or policies noting the ownership of the Product as the Seller, and shall notify the Seller forthwith of any loss or damage to the Product and hold any insurance money in trust for the Seller. The Buyer now irrevocably authorises the Seller to collect the insurance monies from the insurers. If a claim is made against the insurers the Buyer acknowledges that the Seller may, at its discretion, conduct negotiations and effect a settlement with the insurers and the Buyer agrees to be bound by such settlement. The Seller shall apply the insurance monies, at its discretion, as follows:

- (a) in making good the damage;
- (b) in replacing the product by other similar goods to which the terms of this agreement shall apply;
- (c) in compensating the Seller for all loss which it suffers, any deficiency being made up by the buyer on demand;

9.1.9 pay punctually all premiums due for such insurance and to produce to the Seller on request the policy or policies together with evidence of payment of the premiums and agrees that the Seller may effect the insurance referred to in clause 9.1.8 if the Buyer has failed to do so (though the Buyer is not under any obligation to do so) and to reimburse the Buyer on demand the cost of doing so.

### 10.0 LIMITATION OF LIABILITY

10.1 Except to the extent expressly set out in these Conditions to the contrary, the provisions of this clause 8 set out the entire financial liability of the Seller (including for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

10.1.1 any breach of Contract or of these Conditions;

10.1.2 any use made or resale by the Buyer of the Product, or any product incorporating the Product;

10.1.3 any representation, statement or tortious act or omission including negligence arising or in connection with the contract.

10.2 Nothing in these Conditions excludes or limits the liability of the Seller:

10.2.1 for death or personal injury caused by the Seller's, its employees', agents' or sub-contractors' negligence;

10.2.2 for fraud or fraudulent misrepresentation;

10.2.3 under section 2(3) of the Consumer Protection Act 1987;

10.2.4 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability;

10.3 Subject to clause 10.2, the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution, or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Price;

10.4 Subject to clause 10.2, the Seller shall not be liable to the Buyer for any indirect, special or consequential loss or damage whatsoever caused.

10.5 Subject to clause 10.2, the Seller shall not be liable to the Buyer for any loss of profit or loss of business,

10.6 The Buyer expressly acknowledges that by entering into contract with the Seller it acknowledges and agrees the exclusions and limitations of liability set out herein and that the Price which has been agreed for the Products reflect the level of liability accepted by the Seller. The Buyer further acknowledges that it is its own responsibility to seek legal advice on the meaning and effect of these exclusions and limitation of liability and that it is able to and should seek to protect itself against any potential loss or damage which is not recoverable from the Seller by means of obtaining insurance from third party providers.

### 11.0 INTELLECTUAL PROPERTY

11.1 Any specifications and designs of the Product including the copyright design rights or other intellectual property rights in them and all copyright design rights and other intellectual property rights comprised in the Product shall at all times be and remain the property of the Seller. No right or license is granted under these Conditions to the Buyer under any patent trademark copyright registered design or other intellectual property right except the right to use or resell the Product.

### 12.0 INSOLVENCY OF BUYER

12.1 Without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled by written notice to the Buyer to terminate the Contract or suspend any further deliveries under the Contract without any liability to the Buyer if the Buyer:

12.1.1 goes into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation;

12.1.2 has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

12.1.3 a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer;

12.1.4 suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it;

12.1.5 encumbers or otherwise charges any of the Products;

12.1.6 is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

12.1.7 ceases or threatens to cease to carry on business or the Seller reasonably apprehends that any of the other events mentioned above in this clause 12.1 or a similar event is about to occur in relation to the Buyer to trade.

### 13.0 CONSEQUENCES OF TERMINATION

13.1 In the event of termination for breach by the Buyer (including without limitation termination pursuant to clause 12.1), if the Product has been delivered but not paid for the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### 14.0 GENERAL

14.1 Each right and remedy of the Seller under these Conditions is without prejudice to any other right or remedy of the Seller whether under the Contract or otherwise.

14.2 Subject to clause 14.3, any Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document.

14.3 These Conditions apply to all the Seller's sales and any variation to these Conditions and any representations about the Product shall have no effect unless expressly agreed in writing by the Seller. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in these Conditions or the Specification.

14.4 Any notice required or permitted 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.

14.5 No waiver by the Seller 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.

14.6 If any provision of these Conditions is found by a court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

14.7 Neither party shall be liable to the other for its failure to perform as herein provided under any Contract (except for the payment of money) where such failure is the result of a strike or other labour dispute (whether or not relating to either party's workforce), fire, flood, earthquake, storm, governmental action, or any other reason beyond the reasonable control of such party. In the event that the event in question continues for a period of 90 consecutive days, either party shall be entitled to immediately terminate such Contract by written notice to the other.

14.8 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

14.9 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person that is not a party to it.

14.10 Any dispute or claim arising out of or in connection with these Conditions and/or any Contract or in connection with the formation or subject matter of any Contract (including non-contractual dispute or claims) shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

## Customer Acceptance

I have read, understand and agree with the above Terms & Conditions and undertake that I am authorised by the Buyer to sign and enter into this Contract on behalf of the Buyer.

Name (Printed):

Position in Company:

Date:

Signature:

