

# SILVER COMMUNICATION PTY LTD

## TERMS AND CONDITIONS OF SALE AND QUOTATION

EFFECTIVE AS AT 1<sup>ST</sup> January 2009

### **Interpretation**

- (1) 'Customer' means the person(s) or Body(ies) corporate to whom these terms and conditions are directed.
- (2) 'Goods' means all goods ordered from **Silver Communications Pty Ltd** by the customer.
- (3) 'Terms' means these terms and conditions of sale.
- (4) 'Claim' means any claim, action, proceeding, loss, damage, cost, expense or liability what so ever incurred or suffered by or brought or made or recovered against any person and however arising (whether or not presently ascertained, immediate, future or contingent).
- (5) Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any conditions, guarantee, right or remedy implied by law (including the Trade Practices Act 1974) and which by law cannot be excluded, restricted or modified.

### **1. Particulars:**

Particulars of goods to be supplied are subject to confirmation by Silver Communications Pty Ltd on receipt of orders or the acceptance of the quotation herein as to the goods referred to still being available or procurable for the execution of the order or acceptance at that time.

### **2. Prices:**

Prices of goods are subject to an adjustment for increases in prices by the manufacture or supplier at the date of dispatch: an adjustment for increase caused by any Price Regulation (if any) then in force, an adjustment for increases of imported goods caused by varying rates of Exchange, Customs and other duties, or for any other reason which may cause an adjustment for increase in price.

### **3. Return of Goods:**

Goods will not be accepted for credit unless prior approval is given in writing and returned within 7 days of invoice date. Returned goods will be in an unused, undamaged and Resalable condition in original packing and returned at the purchaser's expense. A 20% restocking fee may be chargeable at the supplier discretion and deducted from the credit amount. Items manufactured and or modified to specific requirements of purchaser are not returnable. Silver Communications Pty Ltd will not accept return of those items or allow credit to the purchaser.

### **4. Passing Risk:**

Risk in the goods supplied by Silver Communications Pty Ltd shall pass to the customer upon delivery of the goods to the customer or when collected by the customers agent or courier. The customer shall fully insure the goods to their full value upon the passing of risk and until the title of goods passes when full payment for the goods are made. The customer shall hold the goods as bailee but shall not be entitled to receive any remuneration in respect of the bailment.

### **5. Acceptance of goods:**

Claims for damaged goods or short supply shall be made within 7 days of collection or receivable of goods. No claims will be recognised after this period unless agreed in writing.

### **6. Retention of Title:**

Title in the goods shall not pass to the customer until payment is made in full to Silver Communications Pty Ltd. Silver Communications Pty Ltd reserves the following rights in relation to all goods until all debts/money owed by the customer to Silver Communications Pty Ltd in respect of the goods have been paid in full.

- (a) Legal ownership of the goods.
- (b) To enter the customer's premises (or the premises of any associated company or agent where the goods are located without liability for trespass or any resulting damage) and take possession of the goods.

## **7. Product Liability:**

Silver Communications Pty Ltd shall not be liable in respect of any claim caused by or arising out of the use of the goods except in so far as the same may be imposed upon it or implied into the transaction by any statute, the provisions of which cannot be excluded by these terms. Silver Communications Pty Ltd will not be liable for direct or indirect consequential loss or damage arising out of the use of the goods.

Silver Communications Pty Ltd expressly disclaim responsibility for goods supplied or manufactured by it that;

1. Are damaged by not being installed in accordance with the product installation and maintenance instructions and accepted codes of good practice.
2. Are damaged by the equipment being used for applications other than those which they are designed or recommended for.
3. Are damaged by accident or when used beyond the recommended range of performance.

## **8. Cancellation:**

The purchaser shall not cancel an order without consent in writing and on terms that indemnify Silver Communications Pty Ltd against all losses. Silver Communications Pty Ltd reserves the right to cancel the order to supply goods and services if it finds fulfilment of the order is impossible within a reasonable period of time due to strikes, war, terrorism or any other incident of force majeure beyond Silver Communications Pty Ltd' control. Silver Communications Pty Ltd shall not be held responsible for delayed or faulty delivery of products from suppliers and shall not be liable to pay damages to the customer.

## **9. Payment:**

Payment is to be made in full, either in cash, by cheque or credit card upon collection of goods, or as arranged prior to collection or despatch from Silver Communications Pty Ltd warehouse. Approved account customers. (Payment for goods and services are to be made within 30 days of the date of the invoice). Silver Communications Pty Ltd reserve the right to commence recovery action on any overdue amount without notice to the customer and all cost related to such recovery shall be paid by the customer.

## **10. Delivery:**

Unless specifically nominated on our quotation to supply goods and services, delivery is quoted as FOT (free on transport) from our store. The delivery date quoted is an estimate only based upon information available at the time of quotation and Silver Communications Pty Ltd shall not be liable for any loss or damage or delay occasioned to the customer arising from late or non delivery. Delivery times and dates are implied and not guaranteed.

## **11. Warranty: 12 Months from date of invoice unless stated otherwise**

1. Silver Communications Pty Ltd' warranty covers faulty workmanship, product and material defect and does not cover misuse, modified or wear and tear.
2. Silver Communications Pty Ltd will not accept liability for the cost of disassembly, assembly or installation.
3. All freight, insurance and handling costs must be pre paid by the customer prior to returning goods for warranty assessment.
4. Silver Communications Pty Ltd liability is limited to replacement of the item or refund of the price.

Applicable Law These terms are governed by and shall be construed in accordance with the laws in force in Victoria and the customer will submit to the nonexclusive jurisdiction of the courts of that State and respect of all proceedings arising out of or in connection with these terms.