

Terms and Conditions of Sale

1 Definitions

- (1) "Client" means the client to whom Evolution Communication and Broadcast Services Limited is providing the Services.
- (2) "Evolution" means Evolution Communication and Broadcast Services Limited, its subsidiaries and any of its subcontractors.
- (3) "Services" means the services which Evolution will perform as described in a Statement of Works or Quotation.
- (4) "Data" means Client data to the extent that it relates to their requirements for Services or is necessary for the proper provision of the Services to the Client
- (5) "Normal Working Hours" means 8.00 am to 6.00 pm on a Working Day.
- (6) "Working Day" means Monday to Friday, excluding Bank or other Public holidays in England.
- (7) "Statement of Works" or "SOW" means the document agreed by the parties which specifies the Services to be provided and the requirements for their provision.
- (8) "Out of Hours" means time outside of Normal Working Hours.

2 Orders

(2.1) All contracts for the provision of Services by Evolution shall be deemed to incorporate these terms and conditions, which shall prevail over any other terms from the Client. Once an order has been received, if the Client wishes to cancel the order, the Client will be liable for the cancellation and postponement charges as set out in these terms and conditions (see "Cancellation/Postponement" below).

(2.2) All orders are subject to acceptance and to availability to provide the Services ordered: Evolution is entitled to refuse any order placed by the Client.

(2.3) The Client undertakes that all details it provides to Evolution for the purpose of purchasing Services are correct.

3 Prices

(3.1) Services, together with VAT, are invoiced at the price as set out in the Statement of Works or Quote. The Statement of Works and Quote pricing are valid for 30 days only from the date of the Statement of Works or Quote, unless otherwise stated therein.

(3.2) Evolution reserves the right to modify the prices from time to time for future orders.

(3.3) Any estimates made by Evolution for the cost of any Services shall be estimates only. Whenever estimated prices are quoted, Evolution shall use all reasonable efforts to perform the relevant Services at the estimated price but in no event shall such estimates constitute a fixed price or a not-to-exceed price agreement unless stated otherwise in the Statement of Works or Quote.

(3.4) Any prices quoted by Evolution in a local currency may be adjusted by Evolution due to fluctuations in the Pound Sterling exchange rate.

4 Pre-requisites & Essential Requirements

(4.1) The Client shall:

- Comply with the obligations set out in these terms and conditions;
- Undertake the specific obligations specified in the Statement of Works or Quotation;

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- Ensure that any assumptions or dependencies set out in the Statement of Works are fulfilled or complied with as the case may be.

(4.2) If the Client fails to fulfil any of its responsibilities under these terms and conditions in a proper and timely manner and such failure causes a delay in the performance of the Services or results in additional costs to Evolution, Evolution shall take such action as it deems reasonably prudent and shall provide the Client with a written specification of such delay and the resulting costs. The Client agrees to pay these costs to Evolution at the then current standard Evolution rates for the Services involved.

(4.3) Delays on site caused by faulty equipment, not supplied by Evolution, services not being ready, or access restrictions may incur additional charges at the then current Evolution rates.

5 Service Performance

(5.1) Evolution shall use reasonable endeavours to provide the Services by the date agreed with the Client but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond Evolution's reasonable control. If a delay is likely, Evolution shall contact the Client and advise of the delay.

(5.2) Installation and completion dates are an estimate and are dependent on the Client complying with its obligations and third parties complying with their obligations. Installation and completion dates are not guaranteed.

(5.3) Clients are required to give Evolution access to provide/install the Services within Normal Working Hours and Out of Hours (where agreed).

(5.4) If the Client cannot allow Evolution access to provide/install the Services on the agreed date Evolution may re-arrange provision/installation of the Services provided that Evolution may charge the Client for the additional costs incurred at the then current Evolution rates.

6 Payment

(6.1) Evolution shall invoice the Client once works outlined in the Statement of Works or quotation is completed. Payment is due on presentation of invoice unless credit terms have been agreed in writing with Evolution.

(6.2) Evolution reserves the right to charge 5% above TSB Commercial Bank rate on all overdue accounts.

(6.3) The provision of any services outside the scope of the Services as set out in the Statement of Works or Quotation shall be billed to the Client at the then current Evolution rates.

7 Cancellation/Postponement

(7.1) Once a purchase order has been received for the services defined within the Statement of Works or Quotation, the Client will be liable for the following cancellation and postponement charges;

- Less than 48 hours in advance of agreed commencement date of Services - 100% of the service order value
- 48 hours or more in advance of agreed commencement date of Services – No Charge

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8 Evolution's liability

(8.1) Evolution shall under no circumstances be liable for any consequential or indirect damage or loss, however caused, including (but not restricted to) loss of business or profits in the ordinary course, loss of goodwill, damage to trading relationships loss of data and other financial loss. Evolution's liability in respect of all other losses shall be limited to the invoiced amount of the relevant order.

(8.2) Nothing in this agreement shall limit Evolution's liability for death, personal injury fraud or fraudulent misrepresentation.

9 Force Majeure

(9.1) The company shall be under no liability for any delay, loss or damage caused wholly or in part by act of God, Governmental Restriction, condition or control or by reason of any act done or not done pursuant to a trade dispute whether such dispute involves the company's servants or not by reason of any other act, matter or thing beyond the reasonable control of the company.

10 Termination

(10.1) If either party materially breaches any of its obligations and the breach has not been remedied within 30 days after written notice is given to the defaulting party specifying the breach, the party not in default may by written notice terminate this agreement (including the relevant Statements of Works or Quotations) as of the date specified in such termination notice.

(10.2) Either party may terminate this agreement or the relevant Statement of Works or Quotations or suspend work if:

- (a) the other party fails to promptly pay any amount due to be paid under this agreement or Statement of Works or Quotation; or
- (b) the other party passes a resolution for winding up (save for the purpose of solvent amalgamation or reconstruction) or suffers a winding-up order being made against it; or
- (c) a receiver, administrative receiver, administrator or similar officer is appointed over the other party.

11 Errors and Omissions

(11.1) Evolution makes every effort to ensure that all prices and descriptions quoted are correct and accurate. In the case of a manifest error or omission, Evolution will be entitled to rescind the contract, notwithstanding that it has already accepted the Client's order. In the case of a quotation error in relation to price, the Client will be entitled to purchase the Equipment or Services by paying the difference between the quoted price and the correct price, as confirmed in writing by Evolution after the quotation error has been discovered.

12 General

(12.1) If any provision in these terms and conditions is held to be invalid or unenforceable, it shall be deemed severed from the terms and conditions and this shall not affect the validity or enforceability of the remaining provisions.

(12.2) Any variation of these terms and conditions must be in writing and signed by a duly authorised Evolution official.

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(12.3) Any notices given under these terms and conditions shall be in writing and sent (a) by first class pre-paid post to the last known address of the party; or (b) by e-mail to the last notified e-mail address of the party.

(12.4) These terms and conditions shall be governed by and construed in accordance with the laws of England & Wales and the parties submit to the non-exclusive jurisdiction of the English courts.