

Terms and Conditions of Sale

1. SCOPE OF APPLICATION
All products supplied and services offered by GLOBALCOM to the Customer shall be governed strictly and exclusively on the basis of these terms and conditions of sale. These terms and conditions supersede any terms and conditions stipulated by Customer irrespective of that stipulated on a Customer's order.

2. THE GOODS
Goods are defined as the subject matter of any order placed by the Customer and accepted by GLOBALCOM in writing.

3. PRODUCT QUALITY, SPECIMENS & SAMPLES
3.1 Unless otherwise specifically agreed between the parties in writing, the quality of the goods is determined strictly and exclusively in accordance with GLOBALCOM's product specifications, as updated by GLOBALCOM from time to time and which have been made available to the customer and further copies of which may be requested from GLOBALCOM at any time.
3.2 The description in respect of the properties and composition of specimens and samples are binding on GLOBALCOM only insofar as they have been specifically agreed in writing by GLOBALCOM to define the quality of goods.
3.3 GLOBALCOM does not warrant the suitability for any specific purpose of the goods, any product specifications or other information provided by GLOBALCOM shall not relieve the Customer of the need to conduct his own investigations and tests as to the suitability and application of the goods for any particular purpose and the Customer shall have no claim against GLOBALCOM if the goods are provided in accordance with the product specifications thereof but are not suitable for any particular purpose not specifically agreed to in writing by GLOBALCOM before the goods were supplied.
3.4 Any changes, movement and/or additions or any act of the like, which has an adverse impact on the equipment installed, after the date of installation, must be done with GLOBALCOM's express permission or cooperation, failing which the warranty over the goods will immediately terminate and the Customer will forfeit all rights it has or may have in law with respect to those goods.

4. PRICE
The purchase price of any goods or services supplied or rendered by GLOBALCOM shall be the price reflected in the written quotation sent by GLOBALCOM to the Customer from which an order will be generated by the Customer and accepted by GLOBALCOM. GLOBALCOM quotations are valid for the period indicated therein and upon expiry of the validity period, GLOBALCOM reserves the right to change its prices from time to time as it, in its discretion, deems fit.

5. ORDERS
5.1 Orders placed by the Customer for GLOBALCOM's goods or services, shall be made in writing to the nominated domicilium of GLOBALCOM.
5.2 Orders shall constitute offers to obtain GLOBALCOM's services at GLOBALCOM's prevailing fee and/or to purchase the goods in question at the prevailing prices of GLOBALCOM and shall be capable of acceptance by GLOBALCOM through the delivery of goods and/or provision of the services or by the written acceptance or confirmation of the order.
5.3 GLOBALCOM shall not accept orders that are not written.
5.4 In the event that GLOBALCOM makes delivery of the Product to the Customer in instalments, each instalment shall be deemed to be the subject of a separate contract and non delivery or delay in delivery of any such instalment shall not affect the balance of the contract
5.5 When goods are delivered in accordance with 5.4 above, payments relating to separate deliveries shall be paid 7 (seven) days from date of invoice and payment by the Customer shall not be postponed until such times as all the goods ordered have been delivered.
5.6 Should GLOBALCOM at its own election and with agreement from the Customer or at the Customer's request agree to engage a carrier to transport goods to the Customer, such carrier shall be the Customer's agent and GLOBALCOM shall engage the carrier on fair, just, and reasonable terms and conditions. The Customer indemnifies GLOBALCOM against all and any demands and/or claims and/or liability which may arise or be made against GLOBALCOM by the aforesaid carrier or which may be claimed by the Customer out of the transportation of the goods by the aforesaid carrier.
5.7 The Customer will be liable for payment of all fees, charges, expenses and the like due to the said carrier in respect of the transport of the goods to the Customer as set forth in 5.6.
5.8 If the Customer fails to take delivery of the goods ordered due to a direct/indirect act/omission by the Customer, its employees or agents, then the risk in the goods shall immediately pass to the Customer and the Customer shall be liable to pay GLOBALCOM the reasonable costs of storing, insuring and the handling of goods, until delivery takes place.

6. PAYMENT
6.1 Payment in full is to be made 7 (seven) days from date of GLOBALCOM's invoice, unless specifically otherwise stated on an official GLOBALCOM tax invoice.
6.2 In all cases where the Customer uses a postal banking, electronic or similar service to effect payment, such services shall be deemed to be an agent of the Customer.
6.3
6.3.1 Should any amount not be paid by the Customer on the due date, then the whole amount in respect of all purchases by the Customer shall immediately become due, owing and payable irrespective of the dates when the goods were purchased and the Customer shall be liable to pay interest in respect of the amounts unpaid as at the due date at the compound rate of 2% above the prime rate (as defined in 6.3.2).
6.3.2 Payment shall be made net to GLOBALCOM and all related international bank charges shall be borne in full by the remitter. Any fees related to bank charges shall remain on the statement until settled in full.
6.4 The Customer shall not be entitled to claim set off or deduction in respect of any payment due by the Customer to GLOBALCOM for goods or services supplied.
6.5 GLOBALCOM may allocate all payments made by the Customer at the discretion of GLOBALCOM.

7. CREDIT FACILITIES
7.1 The Customer understands that GLOBALCOM's decision to grant credit facilities to the Customer is at the sole discretion of GLOBALCOM.
7.2 GLOBALCOM reserves the right to withdraw any credit facilities at any time without prior notice, and the nature and extent of such facilities shall at all times be in GLOBALCOM's sole discretion. In addition, GLOBALCOM may request that the Customer provide adequate security in respect of any credit facility.

8. OWNERSHIP & RISK
8.1 Notwithstanding that all risk in and to all goods sold by GLOBALCOM shall pass on delivery (as set forth in Article 9) and irrespective of whether GLOBALCOM may not be the distributor of the goods, ownership of all goods sold and delivered shall remain vested in GLOBALCOM until the purchase price has been paid in full. In the event of a breach of these terms and conditions by the Customer, or if the Customer is sequestrated or placed under liquidation or judicial management or commits any act of insolvency or enters into any compromise with its creditors or fails to satisfy a judgment granted against it within 7 days of the date of judgment or changes the structure of its ownership, GLOBALCOM shall retain a tacit hypothec over the goods pending a court order.
8.2 The Customer shall fully insure the goods purchased from GLOBALCOM against loss or damage, until the purchase price has been paid in full by the Customer. Pending payment to GLOBALCOM for goods purchased, all benefits in terms of the insurance relating to such goods are ceded to GLOBALCOM.
8.3 GLOBALCOM shall be entitled to identify its goods merely by way of packaging and for other distinguishing features. GLOBALCOM shall not be obliged to identify the goods by way of serial numbers or any other form of intricate identification.
8.4 In the event that the Customer is unable to pay GLOBALCOM for the goods delivered and GLOBALCOM exercises its right in terms of the hypothec, GLOBALCOM shall have the right to change the Customer with a penalty fee for the restocking of the unpaid goods and damage caused to the goods due to the direct/indirect act/omissions of the Customer its employees or agents, during the period the goods were in the Customer's possession.
8.5 Before payment is made in full and upon request by GLOBALCOM, Customer shall provide all necessary information regarding the inventory of the goods. Furthermore, upon request by GLOBALCOM, the Customer shall identify on the packaging GLOBALCOM's title of ownership of the goods.

9. DELIVERY
9.1 Deliveries shall be made within a reasonable period after conclusion of the agreement, and the parties specifically agree that there shall be no specific time or specific date shall be agreed upon for the delivery of the goods. GLOBALCOM shall ensure that the goods will be delivered within a reasonable time period
9.2 GLOBALCOM shall have the right to defer delivery under this Agreement or any other supply agreement entered into with the Customer if and for as long as the Customer fails to pay any invoice under one or more of the supply agreements entered into with GLOBALCOM when due.
9.3 In the event that the Customer rejects delivery of the goods or services and the goods or services have been delivered on the date, time and location agreed upon, the goods are not damaged and there is no reasonable explanation for the rejection of delivery of the goods, GLOBALCOM may charge the Customer a reasonable cancellation fee.

10. DAMAGE IN TRANSIT
Notice of claims arising out of damage in transit must be lodged by Customer directly with the carrier within the notification period specified in the contract of carriage and GLOBALCOM shall be provided with a copy of the notice.

11. BUYER'S COMPLIANCE WITH LEGAL REQUIREMENTS
The Customer shall comply with all laws and regulations regarding import, transport, storage and use of the goods.

12. LIABILITY
12.1 GLOBALCOM shall not be liable to the Customer in any manner in the event of impossibility or delay of GLOBALCOM supply due to circumstances entirely beyond the control of GLOBALCOM, and where GLOBALCOM informed the Customer as soon as it became aware of impossibility or delay in the supply.
12.2 GLOBALCOM shall not be liable to the Customer for goods delivered in good order and thereafter damaged in the possession of the Customer due to improper care or storage, use or application, contrary to any instructions and/or warnings provided or available for the goods, or any other direct or indirect act or omission by the Customer, its employees or agents resulting in the goods being damaged or causing harm to any person or damage to any property.
12.3 GLOBALCOM shall not be liable for any harm caused by the goods to a third party if the harm caused to the third party is due to the Customer, its employees or agents providing inadequate instructions or warnings in respect of the goods to the third party.

13. SECURITY
If there are reasonable doubts as to Customer's ability to pay, or if Customer is in default of its payment obligations, GLOBALCOM may, subject to further claims, revoke agreed credit periods and make further deliveries dependant on the provision of sufficient security by the Customer.

14. NEGOTIABLE INSTRUMENTS
Receipt of any negotiable instrument by GLOBALCOM shall not be deemed to be a waiver of GLOBALCOM's rights under this agreement. In relation to a cheque furnished by the Customer, it waives its right to insist on dishonor or protest being given to it in the event that the cheque is dishonored.

15. CUSTOMER'S RIGHTS REGARDING ALLEGEDLY DEFECTIVE GOODS
15.1 The Customer must notify GLOBALCOM in writing of any:
15.1.1 unsuitable goods within 1 (one) week of delivery of the goods; or
15.1.2 allegations of defective goods within 2 months of delivery of the goods or prior to the expiry of any durability dating provided thereon, whichever is earlier.

15.2 If the goods are alleged to be unsuitable or defective and the Customer has duly notified GLOBALCOM in writing in accordance with 15.1 above, then the customer is required to return the goods and original packaging to GLOBALCOM and notify it of the nature of the Customer's chosen remedy.

16. RETURNED GOODS
The goods sold by GLOBALCOM are only returnable, at GLOBALCOM's sole discretion or where the incorrect goods have been supplied, the goods are unsuitable for a purpose stated by the Customer in writing to GLOBALCOM and confirmed in writing by GLOBALCOM to the Customer.

16.1 Unless alleged to be unsuitable or defective at time of use as contemplated in Clause 15 above, all goods returned must be complete, clean, sealed, undamaged and in their original packaging.

16.2 The value of credit or refund for any returned goods will be calculated as per original invoice upon inspection of the returned goods.

16.3 GLOBALCOM must be notified of relevant proof of purchase, packing slip and batch numbers before any claim will be considered.

16.4 Except in the case of incorrectly delivered goods, all goods are to be returned at the Customer's expense and the risk in the goods remains with the Customer until the goods are received by GLOBALCOM. The Customer shall be liable for a re-stocking fee of 20% of the value of the invoice for all goods returned.

17. BREACH
Should the Customer fail to make any payment of any amount due on the due date, or breach any of the other terms and conditions contained herein (all of which are deemed material) or commit an act of insolvency, or allow a judgment to be entered against it, or be provisionally or finally liquidated or sequestrated, or in the opinion of GLOBALCOM has a cash flow problem or other financial or commercial difficulty which may in any way whatsoever negatively impact upon the ability of the Customer to comply with any of its current or future obligations in terms of this or any other contract of the Customer with GLOBALCOM, then GLOBALCOM will not prejudice to and in addition to its other legal remedies shall be entitled to cancel this contract or any unfulfilled part thereof, or to claim payment of the full price or the balance thereof as the case may be, and failing such payment, GLOBALCOM is specifically authorised to repossess all unpaid for goods in the possession of the Customer.

18. LEGAL PROCEEDINGS

18.1 Regardless of the place of execution or performance under these terms and conditions or domicile of the Customer, these terms and conditions and all modifications and amendments hereof, shall be governed by and decided upon and construed under and in accordance with the laws of the United Kingdom.

18.2 The Customer hereby submits to the jurisdiction of the Court, notwithstanding that the amount of GLOBALCOM's claim may exceed the jurisdiction of the Court.

18.3 A certificate with annexed duly signed proof of delivery documents, which certificate is issued and signed by the Financial Manager of GLOBALCOM in respect of any indebtedness of the Customer to GLOBALCOM and the fact that such goods were sold and delivered, shall be prima facie evidence of the Customer's indebtedness to GLOBALCOM and prima facie evidence of the delivery of the goods.

18.4 The Customer's physical address as given on the front page of this document shall be recognized as the Customer's address for receipt of notices and execution of legal documents for all purposes in terms of this agreement whether in respect of the serving of any court process, notices, the payment of any amount or communications of whatever nature. GLOBALCOM chooses its domicilium as 4 Bond Street, St Helier, Jersey, Channel Islands, JE2 3NP.

18.5 All legal costs, including attorney-owned client costs, tracing agent's fees and collection charges which the aggrieved party may incur in taking any steps pursuant to any breach by the other party to the agreement or enforcement of these terms and conditions shall be borne and paid by the party against whom the rights are being enforced to the enforcing party, whether or not legal proceedings are commenced.

19. ALTERNATIVE DISPUTE RESOLUTION

19.1 Where a statutory or accredited ombud has jurisdiction, all disputes falling under the jurisdiction of said ombud shall be referred to the ombud for a recommendation.

19.2 Where there is no ombud as contemplated in 19.1, an Alternative Dispute Resolution Agent referred to herein shall be appointed to mediate the dispute or, by agreement between the Customer and GLOBALCOM, the dispute will be referred to Arbitration as contemplated in 19.3 to 19.6 below.

19.3 GLOBALCOM and the Customer may agree to refer any dispute arising from or in connection with this agreement to arbitration, which arbitration shall be final and binding on both GLOBALCOM and the Customer and shall only be subject to Review by the Court if one of the established grounds for review exist and under no circumstances shall the arbitrator's decision be appealed to the Court or any other body.

19.4 When GLOBALCOM and the Customer have agreed to refer the matter to arbitration in terms of 19.3 above, in the interests of a speedy and cost effective resolution of the dispute, a short form or expedited form of arbitration shall be adopted and the filing of documents in the arbitration process directed by the arbitrator. The parties may agree to compile a single consolidated bundle of documents to give forward.

19.5 The arbitrator must be a person agreed upon by the parties and shall at least hold a tertiary qualification in the technical field of the dispute, except where the dispute relates predominantly to the interpretation of this agreement or any law, regulation, or by-law, in which case the appointed arbitrator shall have at least 10 years practical experience as an attorney in private practice or as an advocate of the High Court of the Isle of Man.

19.6 Failing the agreement on the appointment of an arbitrator or the rules of the arbitration, an arbitrator must be appointed by the Arbitration Foundation of the United Kingdom, who shall then finally resolve the dispute in accordance with the rules of the Arbitration Foundation of the UK.

20. GENERAL

20.1 This contract represents the entire agreement between GLOBALCOM and the Customer and shall govern all future contractual relationships between GLOBALCOM and the Customer and shall also be applicable to all debts which the Customer may owe to GLOBALCOM prior to the Customer's signature hereto.

20.2 The Customer acknowledges that it is aware that GLOBALCOM's dealers and sales persons have no authority to vary these terms and conditions of sale, and GLOBALCOM assumes no liability and shall not be bound by any statements, warranties or representations made by such dealers and/or sales persons, save as expressly stated in writing and signed by a manager or a director of GLOBALCOM duly authorized thereto whose names are available on request.

20.3 No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of these terms and conditions, shall be of any force or effect unless reduced to writing and signed by the Customer, and a director of GLOBALCOM. No agreement purporting to obligate GLOBALCOM to sign a written agreement to amend, alter, vary, delete, add or cancel these terms and conditions, shall be of any force or effect, unless reduced to writing and signed by the Customer, and a director of GLOBALCOM.

20.4 The Customer acknowledges that no warranties, representations or guarantees have been made by GLOBALCOM or on behalf of GLOBALCOM which may have induced the Customer to sign this agreement.

20.5 No relaxation or indulgence which GLOBALCOM may give at any time in regard to the carrying out of the Customer's obligations in terms of any contract shall prejudice or be deemed to be a waiver of any of GLOBALCOM's rights in terms of this agreement.

20.6 The Customer shall not cede its rights nor assign its obligations in terms herof without GLOBALCOM's prior written consent thereto.

20.7 GLOBALCOM shall at any time in its sole discretion be entitled to cede all or any of its rights in terms of this application for credit facilities including all terms and conditions to any third party with prior notice to the Customer.

20.8 The Customer undertakes to notify GLOBALCOM in writing within a period of 7 (seven) days of any change of address, change in ownership, name change or any changes in information as set out in this agreement and shall likewise inform the Customer of any such changes affecting GLOBALCOM.

20.9 The headings in this document are included for convenience only and are not to be taken into account for the purpose of interpreting this agreement.

20.10 Each of the terms herein shall be a separate and divisible term and if any such term becomes unenforceable for any reason whatsoever, then the term shall be severable and shall not affect the validity of the other terms.

20.11 Provided that they do not conflict with any of the terms and conditions contained herein, such as general practices, terms and conditions applicable to the industry in which GLOBALCOM conducts business shall be applicable to all dealings between GLOBALCOM and the Customer.

21. FORCE MAJEURE

To the extent any incident or circumstance beyond GLOBALCOM's control (including natural occurrences, war, strikes, lock-outs, shortages of raw materials and energy, obstruction of transportation, breakdown of manufacturing equipment, fire, explosion, acts of Government), reduces the availability of goods from the plant from which GLOBALCOM receives the goods such that GLOBALCOM cannot fulfill its obligations under this agreement, and GLOBALCOM has informed the Customer accordingly and without delay, GLOBALCOM shall:
(i) be relieved from its obligations under this agreement to the extent that GLOBALCOM is prevented from performing such obligations and
(ii) have no obligation to procure goods from other sources. If the aforementioned occurrences last for a period of more than 3 (three) months, GLOBALCOM is entitled to withdraw from the agreement without the Customer having any right to compensation.

22. DISCLOSURE OF PERSONAL INFORMATION

22.1 The Customer understands that the personal information given in the credit application form is to be used by GLOBALCOM for the purpose of assessing the Customer's credit worthiness. The Customer confirms that the information given is accurate and complete. The Customer further agrees to update the information supplied, in order to ensure the accuracy and completeness of the information given, failing which GLOBALCOM will not be liable as a result of any inaccuracies or lack of completeness of information.

22.2 GLOBALCOM has the Customer's consent at all times to contact and request information from any persons, credit bureau or business, including those mentioned in the credit application form and to obtain any information relevant to the Customer's credit assessment, including but not limited to, information regarding the amounts purchased from the suppliers per month, length of time the Customer has dealt with such supplier, type of goods or services purchased and manner and time of payment.

22.3 The Customer agrees and understands that information given in confidence to GLOBALCOM by a third party on the Customer will not be disclosed to the Customer.

22.4 The Customer hereby consents to and authorises GLOBALCOM at all times to furnish credit information concerning the Customer's dealings with GLOBALCOM to a credit bureau and to any third party seeking a trade reference regarding the Customer in his dealings with GLOBALCOM.

23. NOTICES

23.1 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing and if received or deemed to be received by the addressee as stipulated in 25.2 and 25.3 below.

23.2 Any notice to a party sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its domicilium citandi et executandi to which post is delivered shall be deemed to have been received on the 7th business day after posting (unless the contrary is proved).

23.3 Any notice to a party delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its domicilium citandi et executandi shall be deemed to have been received on the day of delivery.

24. COMPLIANCE

In performing its obligations under this Agreement the Customer undertakes to comply with all applicable laws and regulations (in particular, but not limited to, relating to anti-trust and anti-corruption).

25. TERMINATION

This agreement shall commence on the day of last party signing and shall continue for indefinite period unless terminated by either party on two months written notice to the other.