

BlueBeam Security LLP Terms and Condition of Sale

THE BUYER'S ATTENTION IS DRAWN TO SPECIFIC CLAUSES HEREOF WHICH EXCLUDE OR LIMIT THE COMPANY'S LIABILITY AND THOSE WHICH REQUIRE THE BUYER TO INDEMNIFY THE COMPANY IN CERTAIN CIRCUMSTANCES AND THOSE WHICH LIMIT TIME, BEING CLAUSES 2, 6, 9, 10, 13-15 INCLUSIVE AND 18.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Buyer: the person, firm or company who purchases the Goods or Services from the Company.

Company: Bluebeam Security LLP.

Bluebeam Security LLP is a Limited Liability Partnership Registered in Scotland.

Reg No: SO301134

VAT No: GB 895 3832 74

Reg Office: 40 Charlotte Square, EDINBURGH. EH2 4HQ

Postal/Contact Address: 70c High Street, HARPENDEN, Herts. AL5 2SP

Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods or Services, incorporating these conditions.

Delivery Point: the place where delivery of the Goods or Service(s) or Product(s) is to take place under condition 9.

Goods: any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

Input Material: any documents or other materials, and any data or other information provided by the Buyer to the Company relating to the Service(s)

Output Material: any documents or other materials, and any data or other information provided by the Company relating to the Service(s)

Product(s): the product(s) produced by the performance by the Company of the Service(s)

Service(s): the service(s) to be provided to the Buyer by the Company as referred to in the Specification Sheet/ Service Level Agreement

Specification Sheet/ Service Level Agreement: the document to which these terms are appended

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

- 1.4 A reference to one gender includes a reference to the other gender.
- 1.5 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

- 2.1 Subject to any variation under condition 2.3 the 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).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods or Services shall have no effect unless expressly agreed in writing and signed by a Director of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.4 Each order or acceptance of a quotation for Goods or Services by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods or Service(s) subject to these conditions.
- 2.5 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods or Services or Product(s) to the Buyer.
- 2.6 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 7 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION OF GOODS

- 3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

4. SUPPLY OF SERVICE(S)

4.1 The Company shall provide the Service(s) to the Buyer subject to these Terms. Any changes or additions to the Service(s) or these Terms must be agreed in writing and signed by a Director of the Company and the Buyer.

4.2 The Buyer shall at its own expense supply the Company with all necessary documents or other materials, and all necessary data or other information relating to the Service(s) within sufficient time to enable the Company to provide the Service(s) in accordance with the Contract. The Buyer shall ensure the accuracy of all Input Material.

4.3 The Buyer shall at its own expense retain duplicate copies of all Input Material and insure against its accidental loss or damage. The Company shall have no liability for any such loss or damage howsoever caused. All Output Material shall be at the sole risk of the Buyer from the time of delivery to or to the order of the Buyer.

4.4 The Service(s) shall be provided in accordance with the Specification Sheet/ Service Level Agreement and otherwise in accordance with the Company's current brochure or other published literature relating to the Service(s) from time to time, subject to these Terms.

4.5 Further details about the Service(s), and advice or recommendations about its/their provision or utilisation, which are not given in the Company's current brochure or other promotional literature, may be made available upon written request.

4.6 The Company may correct any typographical or other errors or omissions in the Company's current brochure, promotional literature, quotation or other document relating to the provision of the Service(s) without any liability to the Buyer.

4.7 The Company may at any time without notifying the Buyer make any changes to the Service(s) which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Service(s).

5. CHARGES FOR SERVICE(S)

- 5.1 Subject to any special terms agreed, the Buyer shall pay the Company's standard charges as set out in the Specification Sheet/ Service Level Agreement and any additional sums which are agreed between the Company and the Buyer for the provision of the Service(s) or which, in the Company's sole discretion, are required as a result of the Buyer's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Buyer.
- 5.2 The Company may vary the Company's standard charges as set out in the Specification Sheet/ Service Level Agreement from time to time by giving not less than 3 months' written notice to the Buyer.
- 5.3 All charges quoted to the Buyer for the provision of Service(s) are exclusive of any Value Added Tax, for which the Buyer shall be additionally liable at the applicable rate from time to time.
- 5.4 The Company may invoice the Buyer following the end of each month in which the Service(s) is/are provided, or at other times agreed with the Buyer.

6. RIGHTS IN INPUT MATERIAL AND OUTPUT MATERIAL

- 6.1 The property and any copyright or other intellectual property rights in:
- 6.1.1 any Input Material shall belong to the Buyer
- 6.1.2 any Output Material shall, unless otherwise agreed in writing between the Company and the Buyer, belong to the Company, but the Buyer shall be entitled to use the Output Material for the purposes of utilising the Service(s) or Product(s) by way of a non-exclusive licence, subject to payment in full of all sums payable under the Contract.
- 6.2 Any Input Material or other information provided by the Buyer which is so designated by the Buyer and any Output Material shall be kept confidential by the Company, and all Output Material or other information provided by the Company which is so designated by the Company shall be kept confidential by the Buyer; but the foregoing shall not apply to any documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.
- 6.3 The Buyer warrants that any Input Material and its use by the Company for the purpose of providing the Service(s) will not infringe the copyright or other rights of

any third party, and the Buyer shall indemnify the Company against any loss, damages, costs, expenses or other claims arising from any such infringement.

- 6.4 Subject to condition 6.3 the Company warrants that any Output Material and its use by the Buyer for the purpose of utilising the Product(s) will not infringe the copyright or other rights of any third party, and the Company shall indemnify the Buyer against any loss, damages, costs, expenses or other claims arising from any such infringement

7. SOFTWARE

- 7.1 If an order includes software or other intellectual property, such software or other intellectual property is provided by the Company to the Buyer subject to the copyright and user licence, the terms and conditions of which are set forth in the licence agreement accompanying such software or intellectual property or supplied in connection with it. Nothing herein shall be construed to grant any rights or licence to use any software in any manner or for any purpose not expressly permitted by such licence agreement. Unless otherwise provided for in writing by an authorised signatory of the Company, the Company is not the licensor and the Buyer acquires the licence directly from the manufacturer or the manufacturer's licensor.

8. COPYRIGHT, PATENTS, TRADEMARKS AND INTELLECTUAL PROPERTY

- 8.1 The Buyer acknowledges that rights in respect of trademarks, trade names, copyrights, patents and other intellectual property rights connected with the Goods or Product(s) do not pass to the Customer, unless otherwise specifically authorised in writing by the Company.

9. DELIVERY

- 9.1 Unless otherwise agreed in writing by the Company, delivery of the Goods or Product(s) shall take place at the Buyer's place of business.
- 9.2 The Buyer shall accept delivery of the Goods or Product(s) within 7 days of the Company giving it notice that the Goods or Product(s) are ready for delivery unless otherwise agreed in writing.
- 9.3 Any dates specified by the Company for delivery of the Goods or Product(s) are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 9.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without

limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods or Product(s) (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

9.5 If for any reason the Buyer fails to accept delivery of any of the Goods or Product(s) when they are ready for delivery, or the Company is unable to deliver the Goods or Product(s) on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

- (a) risk in the Goods or Product(s) shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
- (b) the Goods or Product(s) shall be deemed to have been delivered; and
- (c) the Company may store the Goods or Product(s) until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

9.6 The Company may deliver the Goods or Product(s) by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

9.7 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

10. NON-DELIVERY OF GOODS

10.1 The quantity of any consignment of Goods or Product(s) as recorded by the Company upon despatch from the Company's place of business or third party's distribution centre shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

10.2 The Company shall not be liable for any non-delivery of Goods or Product(s) (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7 days of the date when the Goods or Product(s) would in the ordinary course of events have been received.

10.3 Any liability of the Company for non-delivery of the Goods or Product(s) shall be limited to replacing the Goods or Product(s) within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods or Service(s).

11. RISK/TITLE IN THE GOODS

- 11.1 The Goods or Product(s) are at the risk of the Buyer from the time of delivery.
- 11.2 Ownership of the Goods or Product(s) shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- (a) the Goods or Product(s); and
 - (b) all other sums which are or which become due to the Company from the Buyer on any account.
- 11.3 Until ownership of the Goods or Product(s) has passed to the Buyer, the Buyer shall:
- (a) hold the Goods or Product(s) on a fiduciary basis as the Company's bailee;
 - (b) store the Goods or Product(s) (at no cost to the Company) in such a way that they remain readily identifiable as the Company's property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods or Product(s); and
 - (d) maintain the Goods or Product(s) in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.
- 11.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- (a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - (b) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 11.5 The Buyer's right to possession of the Goods or Product(s) shall terminate immediately if:
- (a) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or 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), or 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; or

- (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
- (c) the Buyer encumbers or in any way charges any of the Goods or Product(s).

11.6 The Company shall be entitled to recover payment for the Goods or Product(s) notwithstanding that ownership of any of the Goods or Product(s) has not passed from the Company.

11.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods or Product(s) are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

11.8 Where the Company is unable to determine whether any Goods or Product(s) are the goods or products in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods or products of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

11.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 11 shall remain in effect.

12. PRICE OF GOODS

12.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list published on the date of delivery or deemed delivery.

12.2 In the event of any increase in costs to the Company of raw materials, labour, overheads, or any increases in tax or duties, or any variation in exchange rates the Company may increase the Price payable under the Contract upon written notice.

12.3 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

13. PAYMENT

13.1 Subject to condition 13.4, payment of the price for the Goods or Service(s) is due in pounds sterling no later than 28 days from the date of the Company's invoice.

13.2 Time for payment shall be of the essence.

13.3 No payment shall be deemed to have been received until the Company has received cleared funds.

13.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

13.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

13.6 The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Buyer.

14. QUALITY OF GOODS OR PRODUCT(S)

14.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.

14.2 The Company warrants that (subject to the other provisions of these conditions) upon delivery, and for a period of 12 months from the date of delivery, the Goods or Product(s) shall:

- (a) be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
and
- (b) be reasonably fit for purpose.

14.3 The Company shall not be liable for a breach of the warranties in condition 14.2 unless:

- (a) the Buyer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 7 days of the time when the Buyer discovers or ought to have discovered the defect; and
- (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods or Product(s) and the Buyer (if asked to do so by the Company) returns such Goods or Product(s) to the Company's place of business at the Company's cost for the examination to take place there.

14.4 The Company shall not be liable for a breach of the warranties in condition 14.2 if:

- (a) the Buyer makes any further use of such Goods or Product(s) after giving such notice; or
- (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or Product(s) or (if there are none) good trade practice; or
- (c) the Buyer alters or repairs such Goods or Product(s) without the written consent of the Company.

14.5 Subject to condition 14.3 and condition 14.4, if any of the Goods or Product(s) do not conform with the warranties in condition 14.2 the Company shall at its option repair or replace such Goods or Product(s) (or the defective part) or refund the price of such Goods or Product(s) at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or Product(s) or the part of such Goods which is defective to the Company.

14.6 If the Company complies with condition 14.5 it shall have no further liability for a breach of the warranties in condition 14.2 in respect of such Goods or Product(s).

14.7 Any Goods or Product(s) replaced shall be guaranteed on these terms for the unexpired portion of the 12 month period.

15. LIMITATION OF LIABILITY

15.1 Subject to condition 9, condition 10 and condition 14, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of these conditions;
- (b) any use made or resale by the Buyer of any of the Goods or Product(s), or of any product incorporating any of the Goods or Product(s); and
- (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

- 15.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 15.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
 - (b) under section 2(3), Consumer Protection Act 1987; or
 - (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - (d) for fraud or fraudulent misrepresentation.
- 15.4 Subject to condition 15.2 and condition 15.3:
- (a) the Company'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 Contract price; and
 - (b) the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

16. ASSIGNMENT

- 16.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 16.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

17. TERMINATION

- 17.1 The Company shall be entitled by notice in writing summarily to terminate any Contract without prejudice to any claim or right the Company may otherwise make or exercise where:
- (a) the Buyer is in breach of any term, condition or provision of any Contract and/or these Terms and Conditions or as set out in law;
 - (b) the Buyer (i) has a petition for its winding-up presented; or (ii) has an administration order made against it; or (iii) passes a resolution for voluntary winding-up (other than for the purpose of a *bona fide* amalgamation or reconstruction); or (iv) enters into an arrangement or composition with its creditors; or (v) has a receiver or manager appointed over all or any of its assets.

(c) any distress is levied upon any of the Buyer's property.

18. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods or Product(s) ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

19. GENERAL

- 19.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 19.2 If any provision of the Contract is found by any 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.
- 19.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 19.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 19.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 19.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

20. COMMUNICATIONS

- 20.1 All communications between the parties about the Contract shall be in writing in any original documents, fax, internet email, or any other means bearing proof of sender and originator.
- 20.2 If communications are delivered by hand or sent by pre-paid first class post or sent by fax such communications shall be sent:
- (a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
 - (b) (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 20.3 Communications shall be deemed to have been received:
- (a) if sent by email, on the day of delivery of the email;
 - (b) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
 - (c) if delivered by hand, on the day of delivery; or
 - (d) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 20.4 Communications addressed to the Company shall be marked for the attention of a director of the Company.