



## Terms and Conditions of Sale

### **1 DEFINITIONS**

In these conditions of sale the following terms shall have these meanings ascribed to them:

- SPHINX Computer means SPHINX Computer Vertriebs-GmbH.
- Customer means the person, firm or organisation placing an order with SPHINX Computer.
- Order means acceptance of quotation, instruction to proceed or other confirmation by the customer.
- Equipment means hardware, software or other services ordered by the customer from SPHINX Computer.

### **2 DELIVERY**

- 2.1** If a delivery date is specified or otherwise given by SPHINX Computer, the same shall be taken as an estimate made in good faith and shall not be a term of the Contract.
- 2.2** Under no circumstances shall SPHINX Computer be liable for any loss or damage sustained by the Customer in consequence of failure to deliver by such date.
- 2.3** SPHINX Computer's liability shall, in respect of the Equipment or any part thereof, cease on delivery to the Customer's premises and all subsequent risk shall pass to the Customer.

### **3 PRICE**

- 3.1** Unless the quotation in writing given by SPHINX Computer expressly provides that price shall remain firm for a specified period the prices quoted shall be subject to increases reflecting any increase in SPHINX Computer's costs in respect of materials, labour, services or transport or changes in exchange rates between the date of order and date of despatch.
- 3.2** Unless stated otherwise, prices do not include tax insurance freight and delivery costs.

## 4 PAYMENT

- Unless otherwise agreed in writing, payment is due to SPHINX Computer with order or on delivery of the
- 4.1** Equipment against invoice except nowhere the Customer establishes and maintains a satisfactory credit arrangement with SPHINX Computer. Under the terms and credit payment the Customer shall pay all invoices not later than 30 days after the invoice date.
- 4.2** SPHINX Computer reserve the right to impose a surcharge equating to 3% over HSBC plc base rate for lending on accounts, which exceed these payment terms.

## 5 CANCELLATION

In event that the Customer (i) cancels the Order or portion thereof, or (ii) fails to meet any obligation hereunder (including failure to operate a satisfactory credit relationship) causing cancellation of the Order or portion thereof, the Customer shall agree to pay SPHINX Computer cancellation charges by way of liquidation damages as a percentage of the list price of the cancelled equipment as detailed below.

<b>Cancellation Notice received</b>	<b>Cancellation Charges payable</b>
(a) 31/90 days prior to Scheduled delivery month.	(a) 10% or ?100, which ever is the greater.
(c) 30 days or less prior to scheduled delivery month.	(c) 15% or ?100, whichever is the greater.
(d) During Scheduled delivery month	(d) 20% or ?100, whichever is the greater.

The customer may not cancel the Order or portion thereof after delivery.

## 6 RETURNS

Goods are returned to stock in special circumstances only.

- Such goods will only be accepted for return if a) approved by SPHINX
- 6.1** Computer and covered by an official returns number issued by SPHINX Computer and b) the intention to return is notified within 7 days of delivery.
- 6.2** Goods not in their original packing or damaged will not be accepted.
- 6.3** A restocking charge of 20% of the value of the Equipment will be payable.

## **7 WARRANTY**

- Unless otherwise agreed in writing the Equipment purchased herewith is warranted on a return to
- 7.1** depot basis against defects in workmanship and materials under normal and proper use and conditions its unmodified condition for a period of 90 (ninety) days from date of delivery or within the manufacturer's warranty period.
- As a condition of this Warranty the Customer must:
- 7.2** (i) Ship the Equipment to SPHINX Computer's Depot transportation prepaid and:  
(ii) Include with the returned Equipment a written description of the claimed defects and:  
(iii) Notify SPHINX Computer within 14 days of the fault complained of arising.
- 7.3** If SPHINX Computer determines that the Equipment returned to it for warranty correction is not defective as herein, the Customer shall pay SPHINX Computer all costs of handling, diagnosis and transportation SPHINX Computer's sole responsibility under the above warranty shall be at its option to either repair or replace
- 7.4** the Equipment and/or components that fail during the Warranty period due to defects in workmanship and material provided the customer has promptly reported the same to SPHINX Computer in writing and SPHINX Computer has upon inspection found such equipment and/or components to be defective.
- 7.5** All replaced Equipment shall become SPHINX Computer's property

## **8 PRODUCT SPECIFICATION CHANGES**

SPHINX Computer reserves the right prior approval from, or notice to, the Customer to make changes to the Equipment:

- (a)** Which do not affect the right without the prior approval from, or notice to, the Customer to make changes to the Equipment:
- (b)** Which are required for purpose of safety or:
- (c)** Which meet SPHINX Computer's equipment specification

## **9 PROPERTY**

All Equipment delivered by SPHINX Computer to the Customer shall  
**9.1** remain the property of SPHINX Computer (and legal ownership shall remain vested in it) until the Customer has met all outstanding debts and other contractual obligations in relation to the Equipment.

Until such time as the Customer has paid in full all monies owing for any equipment supplied by  
**9.2** SPHINX Computer the Customer shall keep in a fiduciary capacity for SPHINX Computer and shall take all steps necessary to ensure that the same are kept in a safe place and are properly insured to their full value while in the Customers custody.

Should the Customer fail to complete the payment within the time  
**9.3** stipulated or be in default of payment for any other reason then SPHINX Computer shall be entitled to stop all delivery of equipment whether such deliveries relate to the Contract under which the debt is still owed or not. SPHINX Computer will in addition be entitled to terminate all outstanding

**9.4** orders and to repossess immediately all equipment which is its property under sub-clauses (1) and (2) of this Clause and the Customer expressly grants SPHINX Computer the right of entry on its premises to exercise such right of repossession.

## **10 LOSS OR DAMAGE IN TRANSIT**

No claim for loss or damage to the equipment delivered will be  
**10.1** entertained by SPHINX Computer unless notification of the nature and extent of such a claim is received by SPHINX Computer within ten days.

**10.2** The liability of SPHINX Computer shall in no circumstances exceed the invoiced value of the goods lost or damaged.

## **11 CUSTOMERS DEFAULT 11 CUSTOMERS DEFAULT**

If the Customer shall make default in or commit any breach of any of his obligations to SPHINX Computer or if any distressor execution shall be levied upon the Customer his property or assets or if he (the Customer) shall compound with his creditors or commit any act of bankruptcy presented or made against him, or if the Customer shall be a limited company and any resolution or petition to wind up such

company<sup>1</sup>s business shall be made,  
passed or presented otherwise than for reconstruction or amalgamation or is a  
receiver of such company's  
undertaking property or assets or any part thereof shall be appointed SPHINX  
Computer shall have the right forthwith:

- To determine any order, then subsisting and upon written notice of such  
determination being

**(i)** posted to the Customer<sup>1</sup>s last known address any subsisting order shall be  
deemed to have been  
determined without prejudice to any claim or right SPHINX Computer  
might otherwise make or exercise.
- (ii)** To recover at the Customer<sup>1</sup>s expense and without demand, all Equipment  
which remains SConnect's  
property pursuant to Clause 12 above.

## **12 CONFIDENTIALITY**

- 12.1** The Customer and SPHINX Computer undertake that they will keep  
confidential and not disclose to any third  
party without the others prior consent in writing any drawings designs or  
information (whether of a  
Commercial or Technical nature) required in connection with the  
Equipment.
- 12.2** SPHINX Computer and the Customer shall only divulge confidential  
information to those employees who are  
directly involved in the Contract and will ensure that those employees are  
bound by the requirements of  
this Clause.

## **13 INDEMNITY**

- 13.1** SPHINX Computer shall indemnify the Customer against any claims  
arising out of the death or physical  
injury of persons caused by the defects in any of the equipment shipped  
by SPHINX Computer.
- 13.2** SPHINX Computer shall indemnify the Customer against any claims  
arising from direct damage to property  
caused by any defect in the Equipment or by negligence of SPHINX  
Computer<sup>1</sup>s employees in connection with  
the performance of their duties. SPHINX Computer<sup>1</sup>s total liability under  
this Clause shall limited to the value of  
the Equipment for any one event or connection of events.

- 13.3** In no event shall SPHINX Computer be liable to the Customer for loss of use, profits or contracts or any other indirect or consequential damages or losses however arising.

## **14 SOFTWARE**

With regard to any Software developed or provided by SPHINX Computer or licensed by it specifically for the

- 14.1** Order the title thereto shall remain in SPHINX Computer or the licensor (as the case may be), but SPHINX Computer shall grant to the Customer the free and unfettered rights to use and modify such Software for his own use. SPHINX Computer shall not be responsible for any defect in such Software should the Customer modify the same.

With regard to any Software supplied under the Order over which SPHINX

- 14.2** Computer and/or third parties hold title or other rights, SPHINX Computer shall permit or procure for the Customer (as the case may require) the right to use and apply that Software in the operation of the Equipment.

With regard to any Software which is referred to in sub-clause 2 above

- 14.3** the Customer undertakes not to disclose or make available any part or parts thereof to any third party without the prior written consent of SPHINX Computer.

- 14.4** Software is supplied on the terms of the License Agreement attached, which is to be read with these Conditions of Sale.

## **15 INSTALLATION AT CUSTOMER PREMISES**

SPHINX Computer shall provide adequate information in reasonable time to enable the Customer to provide adequate operational conditions for the Equipment and the Customer shall suitably prepare the premises where the Equipment is to be delivered prior to the delivery and installation of the Equipment. The Customer shall furnish all labour required under the direction of SPHINX Computer for unpacking and placing Equipment on the premises. The Customer shall make the premises available to SPHINX Computer for a period of thirty days before the date of delivery, if required.

## **16 MISCELLANEOUS**

The Waiver by SPHINX Computer of any breach of any term of this Agreement shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

**16.2** The Customer is an independent party and shall not have the authority to act for and/or bind SPHINX Computer in any way or to represent that SPHINX Computer is in any way responsible for acts of the Customer.

**16.3** Neither this Agreement nor any rights hereunder may be assigned by either party without the prior written consent of the other.

**16.4** English Law shall govern this Agreement.

**16.5** Neither party shall be responsible for any failure to perform or delay in performance of the Contract due to Act of God, Embargo or Government Act, War or Strikes.

**16.6** SPHINX Computer shall not be liable for any breach Conditions arising as a result of war, riot, explosion, fire, flood, strike or shortage of materials or labour.

## **17 LEGALITY**

If any of these Conditions or part thereof are held to be illegal then such Condition or part thereof shall be saveable and in no way invalidate the remainder.