



## GENERAL TERMS AND CONDITIONS OF SALE OF EQUIPMENT AND SUPPLY OF SERVICES

### **ARTICLE 1. DEFINITIONS**

"RFS" shall mean Radio Frequency Systems GmbH, a company incorporated in Germany and having its registered office at Kabelkamp 20, 30179 Hannover, Germany. "Equipment" shall mean the private telecommunications products which RFS has accepted to sell under these General Terms and Conditions ("T&Cs"). "RFS Group" shall mean a group company in the sense of §§ 15 ff. AktG. "Hardware" shall mean the tangible part of the Equipment. "Purchaser" shall mean the purchasing company and any successor thereof. "Services" shall mean the services defined in the Contractual Documents and to be provided by RFS. "Software" shall mean the machine readable (object code) version of the computer programs, either provided as a stand alone product, or incorporated by RFS into Hardware to form an Equipment. "Contractual Documents" shall mean all contractual documents governing relations between RFS and the Purchaser, detailing the terms and conditions of the sale of Hardware, license of Software and/or supply of Services, including in particular, in order of precedence: (i) the Acknowledgement of Order issued by RFS pursuant to Article 4 herein; (ii) the specific conditions and their appendices; (iii) these T&Cs.

### **ARTICLE 2. GENERAL**

These T&C's shall govern the sales of Hardware, license of Software and/or the supply of Services specified in the Order. The application of the Purchaser's general terms and conditions of purchase is excluded. No amendment to these T&C's shall be considered as accepted unless and until RFS has previously agreed it to in writing.

### **ARTICLE 3. OFFERS**

Offers and quotations shall be valid for the period specified in the offer or quotation, as applicable, or failing that, for a maximum period of sixty (60) days from date of submission to the Purchaser. The prices, price lists, information and technical specifications contained in RFS' catalogues and/or brochures are given for information purposes only and shall not be binding on RFS which may modify such information as it may deem necessary.

### **ARTICLE 4. ORDERS**

All Orders shall be sent to RFS in the form of a document issued by the Purchaser either in writing or through an RFS e-commerce web site as applicable (the "Order"). No Order shall be binding on RFS unless and until accepted in text form by RFS (the "Acknowledgement of Order"). Any modification of an Order by the Purchaser is possible only until latest the end of the second day (12 p.m.) after the date of Acknowledgement of Order in text form; in case of any whole or partly Order cancellation by the Purchaser after that time, RFS is allowed to charge a fee of twenty (20)% of the cancelled part of the Order value. Purchase order placed by Purchaser shall meet or exceed the minimum order value of 1000 €. A surcharge of 100 € will be added to any order falling below this threshold.

### **ARTICLE 5. DELIVERY - RISKS – INSURANCE - TITLE**

The Equipment shall be delivered and all risks of any nature to the Equipment shall pass in accordance with the FCA (RFS-Plant in Hannover) INCOTERM according ICC 2010, unless otherwise specified in the Contractual Documents. Under FCA, RFS shall have the right to invoice the Equipment and any related cost to Purchaser in case Purchaser did not pick up the Equipment within two weeks after putting it at disposal. Furthermore, RFS shall have the right to claim a penalty from Purchaser in case Purchaser did not pick up the Equipment after putting it at disposal at 30% of the Order value, which shall be payable immediately. Purchaser shall contract necessary insurance policies to cover the risk related to the delivery accordingly. Title to the Equipment shall pass on to and vest in the Purchaser upon full payment by the Purchaser for the Equipment.

### **ARTICLE 6. LEAD TIMES**

Unless otherwise agreed between the Parties, the time periods for delivery shall start when (i) the Order is acknowledged and accepted by RFS, (ii) the payment is made, or the confirmed Letter of Credit (if any) is opened and is accepted by RFS. All lead times are given for information purposes only. Actual delivery shall take place no more than three (3) months after the delivery date indicated in the Acknowledgement of Order. No delay in delivery or incomplete delivery shall justify cancellation of the Order or constitute a ground for claiming penalties or liquidated damages or any kind of compensation or indemnification. RFS shall automatically be released from any commitment relating to lead times in the event of non-performance or partial non-performance of the Purchaser's obligations.

### **ARTICLE 7. PRICES AND TAXES**

Prices for the Equipment and/or Services are quoted and shall be paid in the appropriate currency specified in the Contractual Documents. Prices are quoted for the quantities set out in the Contractual Documents. Prices for Equipment are firm up to the date set out in the Contractual Documents. Prices for Services are firm for a maximum period of one (1) month; afterwards evolution of such Prices will follow the evolution of the RFS worldwide price list with respect to the Services. Prices exclude all taxes, levies, customs duties, VAT (if applicable) or whatever charges (the "Taxes") imposed on the supply of Equipment or performance of Services, which shall be borne by the Purchaser in addition to the prices quoted. The Purchaser shall pay said Taxes directly to the relevant tax authorities, at the rate applicable at the time payment is effected. Should RFS be obliged to pay any Taxes in respect of the provision of Equipment or Services, the Purchaser shall refund the same within 30 days of receipt of the documents justifying their payment. Should this be prevented by local legislation, RFS shall reserve the right to increase the prices quoted herein in proportion to the tax burden actually borne. If any payment by the Purchaser is subject to withholding tax, the Purchaser agrees to increase the amount of any payment which is subject to a withholding or pay an additional amount, as is necessary to



ensure that RFS receives the same amount it would have received if there had been no withholding. Prices may be adjusted to reflect changes to the tax laws.

#### **ARTICLE 8. PAYMENT TERMS**

Invoices will be sent by RFS upon shipment of the Equipment or upon the beginning of performance of the Services. Unless otherwise stated in the Contractual Documents, all invoices will become due and payable upon their receipt, and all payments are to be made, by way of wire transfer on the bank account stated on the corresponding invoice. Payments of periodical fees for Software or Services shall be made in advance upon receipt of invoice at the beginning of each invoiced period. In case of modification of the Purchaser's financial situation as considered initially by RFS when issuing the Acknowledgement of Order, RFS may at its discretion require other payment terms such as advance payment, full payment upon shipment of Equipment, payment pursuant to a confirmed and irrevocable letter of credit as per indicated above, first demand bank guarantee or any other security interest. All costs related to the opening and confirmation of a letter of credit shall be borne by the Purchaser. The non-payment of any amount due shall entitle RFS to require from the Purchaser, without prior notice, the payment of an interest of one-and-a-half times the German legal rate from the date the payment is due. In addition, RFS reserves the right to suspend performance of its obligations, without any prior notice, until complete payment of all outstanding amounts including the late payment interests. Moreover, in the event of a non-payment of any amount, RFS shall have the right, eight days after default notice given by registered letter, to (i) cancel of the Order, and/or (ii) demand the return to RFS of the Equipment, and/or (iii) obtain the payment, by way of damages, of the expenses incurred by RFS for the assembly, disassembly, carriage and insurance of the Equipment. The Purchaser shall consequently take all necessary steps to immediately comply with RFS above remedy(ies). The outstanding balance of the price shall become immediately due upon any resale or transfer of the Equipment.

#### **ARTICLE 9. ACCEPTANCE OF EQUIPMENT**

The Purchaser shall perform a visual and quantitative check of the Equipment upon delivery thereof and shall notify RFS in writing of any apparent defect, omission or damage. If such notice is not given within undue delay, but latest within three (3) business days (Monday to Friday) following delivery, the Equipment shall be deemed accepted and in conformity with the packing list and the Order and free from apparent defects or non conformity. In the event any claim relating to the Equipment is notified to RFS within three (3) business days from delivery, the Purchaser shall establish the reality of the defects or non conformity found and shall grant RFS every facility to ascertain and correct them. The Purchaser shall neither undertake any repairs itself nor cause any third party to undertake any repairs. No Equipment shall be returned without RFS' prior authorization. Returns shall be sent at the Purchaser's expense and risk. The return of all or part of the Equipment shall not relieve the Purchaser from its obligations to pay the invoices on the agreed due date. The returned Equipment shall, at RFS' election, either be replaced, or repaired, or reimbursed

#### **ARTICLE 10. WARRANTY**

##### **10.1 Warranty on Hardware**

RFS warrants that the Hardware shall comply with its technical specifications and be free from any defects in design, material or workmanship. Warranty claims are subject to a statute of limitations of twelve (12) months calculated from the start of the statutory statute of limitations, as far as no further exception is made for certain parts of Hardware originating from third parties. Notifications of defect by the Purchaser shall be given in written form by registered letter with return receipt requested without undue delay. The parts of the Hardware which are recognized by RFS as being defective shall, at RFS' option, be replaced or repaired. Unless otherwise provided by law, operations performed under this warranty, in particular the repair, modification or replacement of part, shall not have the effect of extending the Hardware warranty. This warranty does not cover on-site repairs and the cost of transporting the Hardware from the Purchaser's premises to RFS' premises shall be borne by the Purchaser. The cost of return to the Purchaser shall be borne by RFS. The repaired or replaced spare parts shall be supplied to the Purchaser on a standard-exchange basis, either by new components, or by reconditioned components identical or superior in quality and functionality to the replaced parts or Hardware. RFS warrants the repaired or replaced part of the Hardware under the same conditions for a period expiring either simultaneously with the initial warranty of the Hardware or three (3) months after delivery of such repaired or replaced part whichever is later.

##### **10.2 Warranty on Software**

RFS warrants that for a period of four (4) months following delivery to the Purchaser (i) the media on which the RFS proprietary Software is furnished will be free of defects in materials and workmanship under normal use and (ii) the RFS proprietary Software substantially conforms to RFS' relevant specifications. Except for the foregoing the Software is provided "AS IS". In no event does RFS warrant that the Software is error free. The warranty is strictly limited to the provision of new media, or, as applicable, of a workaround solution or of the then generally available error correction or maintenance release. For Software supplied under license from third parties, the warranty terms are those which RFS is authorized to provide to its clients. Software licensed under free licenses such as but not limited to GPL license, are provided "AS IS" without any warranty of any kind.

##### **10.3 Limitations**

This warranty does not cover damage caused by: (1) non-compliance with the instructions for use or installation of the Equipment, (2) use of the Equipment in combination with, or integration of the Equipment into, equipment not supplied by RFS, unless such combination or integration has been expressly approved in writing by RFS, (3) use of the Equipment for a purpose other than that for which it is intended, (4) faults and deterioration caused by normal wear and tear, (5) Equipment malfunctioning due to external causes (e.g., radio-electric interference produced by other equipment, variation in voltage of the mains supply and/or telephone line), (6) changes,



or repairs made to the Equipment, or to the interface conditions, including mandatory changes, without RFS' prior authorization. The fulfillment of the above obligations shall be in full satisfaction of RFS' liability for defects with regard to the equipment and the Software and shall be the sole and exclusive remedy of the Purchaser. RFS disclaims all warranties, whether express or implied (including, without limitation, warranties of merchantability and fitness for a particular purpose) concerning the Equipment or its accompanying documentation. The Parties may enter into a separate maintenance and support contract.

#### **ARTICLE 11. LIMITATION OF LIABILITY**

In no event shall RFS, its agents and subcontractors be liable for any indirect, incidental, intangible and/or consequential damage (such as losses of use, data, profit, income, business, anticipated savings, reputation, goodwill, or business interruption and more generally, any losses of an economic or financial nature, whether these may be deemed as consequential or arising directly and naturally from the incident giving rise to the claim) arising out of the use or inability to use the Equipment (even if foreseeable or specifically notified to RFS), whether such liability is based on breach of contract or any negligent act or omission of RFS, its agents and subcontractors. Unless otherwise provided for herein, the Purchaser has no claim for damages based on whatever legal reason, including infringement of duties arising in connection with the contract or tort. This does not apply if liability is based on: the German Product Liability Act ("Produkthaftungsgesetz"); intent; gross negligence on the part of the owners, legal representatives or executives; fraud; failure to comply with a guarantee granted; negligent injury to life, limb or health; or negligent breach of a fundamental condition of contract ("wesentliche Vertragspflichten"). However, claims for damages arising from a breach of a fundamental condition of contract shall be limited to the foreseeable damage which is intrinsic to the contract, provided that no other of the above case applies. The above provision does not imply a change in the burden of proof to the detriment of the Purchaser.

RFS shall be liable for the length indication stated in the packing list but not for the cable length marking which is a non-calibrated indicator only; RFS assumes no liability for cable length tolerances of up to +/- 1% as these are beyond the measurement equipment accuracy.

#### **ARTICLE 12. INTELLECTUAL PROPERTY – INFRINGEMENT**

RFS shall retain all intellectual property rights in elements, particularly the plans, studies, works and documents prepared and developed by RFS within the frame of the performance of the Order, and such elements shall not be made available to third parties or used without RFS' written consent. RFS shall defend the Purchaser against any claims for infringement of any third party industrial or intellectual property rights, provided that (i) the Equipment have been used in conformity with the technical specifications attached to the Contractual Documents, (ii) the Equipment has not been modified without RFS' prior written consent, (iii) the infringement does not result from the assembly, function or use of the Equipment or any part thereof in combination with any products not supplied by RFS, (iv) the infringement occurs in the country of the Equipment delivery or

in the country foreseen for use and (v) the Purchaser has given RFS the earliest possible notice of claims made or actions threatened or brought against it and has communicated in due time to RFS all relevant documents and information in its possession. If, by a final judgment, any item of Equipment is held to infringe a third-party intellectual property right, RFS shall at its own expense and option, as a sole remedy for Purchaser : (a) obtain the right for the Purchaser to continue using the Equipment; or (b) replace the infringing Equipment with equivalent, non-infringing Equipment; or (c) modify the infringing Equipment so that it becomes non-infringing; or (d) if neither of the foregoing is available on reasonable terms and conditions, cancel the Order and repurchase the infringing Equipment from the Purchaser at a price equal to the purchase price paid for the Equipment or Software, less depreciation on a five years straight line basis

#### **ARTICLE 13. REFERENCE TO RFS'S BRANDS AND TRADE NAMES**

The Purchaser shall not refer to the names or brands of RFS's Group, for any purpose whatsoever, without the prior written consent of RFS.

#### **ARTICLE 14. SOFTWARE LICENSE**

RFS or its licensors shall retain legal ownership in the Software bundled with or embedded in the Equipment. RFS grants the Purchaser a non-exclusive, non-transferable and personal right to use the Software in object code form solely as incorporated in or supplied with the Equipment and solely in connection with the operation of such Equipment for the Purchaser's own internal business purpose. The Purchaser shall not: (a) sub-license, sell or distribute the Software; (b) modify or de-compile or cause any third party to modify or de-compile the Software; (c) make or permit any third party to make copies, translations or adaptations and/or reproduce the Software, except for restarting Software and one "back-up" copy, provided that any copy shall bear a label indicating the name of the Software copyright owner, (d) transfer the Software on an other CPU than the designated CPU for which such Software has been licensed. Should RFS obtain a license from a third party which imposes other obligations on RFS, RFS shall give the Purchaser written notice of such obligations and the Purchaser shall immediately comply with them. Software may be delivered with "Open Source software" or "Free software" governed by their own license terms, such as but not limited to the General Public License; notwithstanding anything to the contrary herein, RFS hereby grants to the Purchaser on such "Open Source software" or "Free software", no more rights than those granted under such Free Licenses, which the Purchaser shall comply with at any time.

#### **ARTICLE 15. FORCE MAJEURE**

RFS shall incur no liability for any failure or delay to perform any of its obligations if it is prevented from performing its obligations due to events such as fire, flood, tornado, storm, lightning, earthquake, monsoon, natural calamities, epidemics, quarantine restrictions, disturbance in supplies from normally reliable sources (i.e : electricity, water, fuel and the like), riot, strike, lockout, transport difficulties, government action, war or any



other event beyond the reasonable control of the parties. RFS shall promptly notify the Purchaser of any delay caused by Force Majeure. If the delay resulting from Force Majeure exceeds three (3) months, either Party may cancel the unperformed part of the Order. Payment shall remain due for the performed part, and the Parties shall promptly settle their accounts accordingly.

#### **ARTICLE 16. CONFIDENTIALITY**

The Purchaser shall not disclose to any third party, shall not copy and shall keep secret all proprietary information disclosed by RFS, including, without limitation, documents marked confidential, technical information, documentation, software, processes, know-how and other unpublished information, except as may be authorized in writing by RFS.

#### **ARTICLE 17. ASSIGNMENT – SUBCONTRACTING**

The Purchaser is not entitled to assign or subcontract whole or part of its obligations under the Order to third parties without the prior written consent of RFS. RFS may assign in whole or in part or subcontract its rights and obligations under the Order to any third party or company of the RFS Group without the Purchaser's prior consent.

#### **ARTICLE 18. APPLICABLE LAW- DISPUTES**

Unless otherwise agreed by the Parties, these T&C's and the Orders shall be governed by the laws of Germany, with the exception of the conflict of law provisions and the provisions of the UN Sales law (CISG) without giving effect to its principles of conflict of laws. Any dispute or difference between the Parties concerning the validity or interpretation of the Contractual Documents or anything contained herein, or in connection therewith or relating to any of the rights, duties, obligations, or the performance thereof, shall be finally settled by the competent Court of Stuttgart.

#### **ARTICLE 19. REPORTING - AUDIT**

Purchaser shall keep full and accurate records and accounts of each Equipment or Hardware purchased. Upon fifteen (15) days prior written notice, during regular business hours at Purchaser's principal place of business, Purchaser shall make these records available for audit by RFS or by an independent auditing firm. Such audit shall be limited to checking the compliance with the terms and conditions of these T&C's. Purchaser undertakes to retain all corresponding books and records for the minimum period as required by the applicable laws or regulations in the country of incorporation of Purchaser.

#### **ARTICLE 20. BUSINESS PRACTICES - COMPLIANCE WITH LAWS**

Purchaser warrants that it as well as its directors, officers, employees and shareholders have not been convicted of or pleaded guilty to an offence involving fraud, corruption or money laundering and that is not now listed by any government authorities as debarred, suspended or otherwise ineligible for government procurement programs. Furthermore, Purchaser shall immediately inform RFS of any conviction, or investigation proceedings initiated against, of any of its directors, officers, employees and shareholders.

Purchaser acknowledges having been made fully acquainted with the "Electronic Industry Code of Conduct" (as updated from time to time and permanently available at <http://www.eiccoalition.org/standards/code-of-conduct/> and incorporated by reference hereof). Purchaser undertakes, in particular, to apply the standards set out therein with respect to the performance of these T&C's and related purchase order as such relates to labor, international human rights, environmental, health and safety, combating bribery and ethics. Purchaser recognizes that violation of such principles will be considered a material breach of these T&C's. In the event RFS reasonably believes that a breach of any of the representations and warranties in this Article 20 has occurred or may occur, and provided that RFS provides Purchaser prior written notification explanatory of such belief, RFS may withhold further delivery to Purchaser until such time as it has received confirmation to its satisfaction that no breach has occurred or will occur. RFS shall not be liable to the Purchaser for any claim, losses or damages whatsoever related to its decision to withhold delivery under this provision. The Purchaser accepts to receive and make known to relevant Purchaser personnel anti-corruption information and/or training materials from RFS in connection with these T&C's.

Purchaser accepts that this Article 20 constitutes a conditions of these T&C's and that any violation of any principles set forth herein will be considered as a material breach of these T&C's or any related purchase order, allowing RFS to terminate these T&C's with immediate effect, without RFS incurring any liabilities in respect of such termination and without prejudice to any other remedies RFS may have in law, equity or in contract in respect of such breach. RFS shall not be obliged to perform deliveries, orders and other obligations under these T&C's if that performance is hindered by the applicable export laws and regulations of France, the United States of America or other countries. Each Party and its respective agents and Affiliates shall, and shall cause their respective employees to, comply at their own expense with all applicable local, national, regional and international laws, ordinances, regulations, codes, standards, directives and international conventions and agreements to the extent that any of the foregoing have the force of law by being directly enforceable by a governmental authority, a court or other proper tribunal, (collectively "Laws"), including, as applicable, but not limited to (a) anti-bribery and records keeping laws, conventions and/or directives of each country in which such party conducts business as it relates to this agreement including, but not limited to, the U.S. Foreign Corrupt Practices Act ("FCPA"), the Organization for Economic Cooperation and Development convention on combating bribery of foreign public officials ("OECD") and the United Nations Convention Against Corruption ("UNCAC") (also known as the Merida convention), including but not limited to offering of payment or transfer of anything of value as defined in the FCPA and other laws implementing the Convention on combatting Bribery of Foreign Public Officials in international business transactions

RFS incurs any costs and/or damages due to the violation by the Purchaser of the business ethics referred to in this Article 20, the Purchaser undertakes to fully indemnify RFS for such costs and damages incurred.