

KGP TELECOMMUNICATIONS, INC
TERMS & CONDITIONS OF SALE

1. Scope

The following Terms & Conditions of Sale (the "Agreement") cover any sale of equipment or materials ("Products") by KGP Telecommunications, Inc. ("KGP") to Purchaser (the "Customer").

2. Definitions

"Order" means a document, in written or electronic format, submitted by Customer for purchase of Products or Services.

"Force Majeure" means any delay, interruption or other failure to perform under this Agreement due to acts beyond the control of KGP, including without limitation: acts of God (e.g., natural disasters, lightning); wars, riots, terrorist activities, and civil commotions; inability to obtain Product from Vendors, cable cuts by third parties, other acts of third parties; explosions and fires; embargoes, strikes, and labor disputes; and laws: orders, rules, regulations, directions, or action of any governmental authority.

"International Shipments" means a shipment whose destination is other than the continental United States, Alaska or Hawaii.

"Products" includes the equipment, hardware, software, cabling, or other materials as offered for sale by KGP.

"Services" means the business services provided by KGP, including but not limited to; inventory management, engineer, furnish and install (EF&I).

"Software" means any program stored on any media, including but not limited to, magnetic tape, semiconductor device, disk, or other memory device which is included as part of a Product.

"KGP Affiliate" means any entity, directly or indirectly, Controlling, Controlled by or under common Control with KGP. The term "Control" means: (i) the power to vote 20% or more of the voting interests of an entity; or (ii) ownership of 20% or more of the beneficial interests in income or capital of an entity.

"Vendor" means KGP's supplier of the Product.

3. Credit Approval

KGP's sale of Products is subject to KGP's credit approval of Customer, and KGP may require a deposit or other form of security during the credit approval process. Customer hereby authorizes all banks and suppliers listed in the credit application to release information necessary to assist KGP in the establishment of a line of credit for Customer. Consideration for an increase or establishment of an open line of credit will be given upon the receipt of the completed and signed credit application, accompanied by a current financial statement. KGP's credit review will commence upon receipt of an initial Order.

4. Orders

The submission of an Order by the Customer and its acceptance by KGP is KGP's agreement to provide, and Customer's agreement to accept and pay for, Products in accordance with this Agreement, as amended. All Orders are subject to acceptance by KGP at its principal place of business, identified on the first page of the credit application. See www.kgplogistics.com for the Sales Order Change and Cancellation Policy.

5. Taxes

All prices are exclusive of taxes. Except for KGP's income and employment taxes, Customer will pay all taxes, including, but not limited to sales, use, property, gross receipts, excise, VAT, bypass or other local, state, or federal taxes or charges imposed on the sale or use of Products or Services, including any international freight, duties or custom fees applicable to Vendor drop shipments. If applicable, Customer will provide KGP with a tax exemption certificate acceptable to the taxing authorities. A valid tax exemption, resale, or tax nexus must be provided for tax exemption based on the tax requirements of the ship-to state. In the absence of a tax exemption certificate, taxes will be charged to and payable by Customer until a valid tax exemption certificate is on file.

6. Payment Terms

Payment is due upon receipt of KGP's invoice. If Customer fails to pay undisputed charges for Products within 30 calendar days of the invoice date, Customer will pay interest on those charges equal to the lesser of 1.5% per month or the maximum rate allowed by law. Failure to make payment of amounts past due within 10 calendar days of receiving KGP's written notice of non-payment may also result in KGP's termination or suspension of shipment of the Order and/or termination of this Agreement. Delinquent account balances are subject to placement for collection, and Customer will pay any reasonable expenses incurred by KGP for such collection activities including attorneys' fees, collection agency fees and fees for returned NSF checks.

7. Delivery

Deliveries are subject to and contingent on timely receipt of an Order by KGP. KGP is not liable for failure to meet a required delivery date due to credit clearance requirements or an event of Force Majeure, or in the event of a drop shipment from the Vendor. Products are shipped FOB shipping point with all shipping charges (transportation, accessorial and other shipping related costs) paid by Customer. Title and risk of loss pass to Customer upon KGP's delivery of the Products to the carrier at KGP's shipping dock or the Vendor's shipping dock for drop shipments. If International Shipments are requested by Customer, KGP Vendor's agreements will determine if KGP can ship to Customer's requested destination and, if approved, Customer hereby grants KGP the irrevocable right to list the Customer as the Importer of Record for such shipment. Ex-Works Incoterms (EXW) will be applicable for international shipments with all shipping charges (transportation, accessorial and

other shipping related costs) paid by Customer. Early order completions or deliveries are considered to have met the delivery date unless contracted terms state otherwise.

8. Delivery Claims

All claims for damage or shortages will be made by Customer upon receipt of Product and filed with the carrier handling the shipment. Claims resulting from discrepancies between invoiced quantities and actual Product quantities received by Customer due to error by KGP must be made by Customer in writing within 10 days of receipt of Product. Any such claim not presented by Customer within 10 days of receipt of Product date will be waived and delivery of invoiced quantities will be conclusively presumed.

9. Disputed Invoices

All disputes regarding invoices or invoiced items will be made by Customer in writing within 30 days of the invoice date. Any such dispute not presented by Customer within 30 days of the invoice date is waived and payment of invoice shall be due in full.

10. Product Installation and Operation

Customer assumes all responsibility for the proper selection, installation, operation, and maintenance of all Products purchased from KGP.

11. Returns

Products may not be returned without prior approval and specific shipping instructions from KGP. See www.kgplogistics.com for the return policy.

12. Right to Offset

KGP may offset (i) any amount owed by Customer or Customer Affiliate to KGP or a KGP Affiliate under this Agreement or any other agreement against (ii) any amount owed by KGP or any KGP Affiliate to Customer under this Agreement.

13. Limited Warranty and Disclaimer

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND KGP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED AND IN PARTICULAR DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES RELATED TO INFRINGEMENT, EQUIPMENT, MATERIAL, SERVICES OR SOFTWARE. KGP makes no warranties of its own with respect to the Products. To the extent legally permissible, KGP will pass through to Customer any Product warranties made available to KGP by the Vendor. In the event a Product fails to comply with a Vendor's warranty KGP will, upon Customer's request, use reasonable efforts to assist Customer in obtaining a return authorization and/or replacement Product. This Section sets forth KGP's sole obligation, and Customer's exclusive remedy, related to the failure of a Product to comply with a Vendor warranty.

14. Damages

KGP's maximum liability for damages caused by its failure(s) to perform its obligations under the Agreement is limited to: (i) proven direct damages for claims arising out of personal injury or death, or damage to real or personal property, caused by the gross negligence or willful misconduct of KGP; and (ii) proven direct damages for all other claims arising out of the Agreement, not to exceed in any 12 month period an amount equal to Customer's total net payments for the affected Products and Services in the six months preceding the month in which the claim or injury occurred. **IN NO EVENT WILL KGP BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT. CONSEQUENTIAL, INCIDENTAL, AND INDIRECT DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOSS OF BUSINESS OPPORTUNITY, WHETHER OR NOT THE OTHER PARTY WAS AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.**

15. Termination

KGP may immediately terminate this Agreement or discontinue acceptance of Orders if Customer fails to cure its breach of the payment terms in Section 6 within 10 days after notice from KGP or fails to cure any other material breach of this Agreement within 30 days after notice from KGP.

16. Trademarks

Customer may not use the service marks, trademarks, trade secrets, name, or logos of KGP or any KGP Affiliates for any purpose, without KGP's prior written consent.

17. Indemnification

Third Party Indemnity. Each party will indemnify and defend the other party, its directors, officers, agents, and employees from and against all claims, damages, losses, liabilities, costs, expenses, and reasonable attorney's fees, arising out of a claim by a third party resulting from: (i) any breach of this Agreement; (ii) willful misconduct or gross negligence under this Agreement; or (iii) violations of applicable laws.

Intellectual Property Indemnity. To the extent Seller has been granted the right to do so by the Vendor, Seller will pass through to Customer any intellectual property indemnity related to the Products.

Rights of Indemnified Party. To be indemnified, the party seeking indemnification under this section must promptly notify the other party in writing of the claim (unless the other party already has notice of the claim) and give the indemnifying party full and complete authority, information and assistance for the claim's defense and settlement. The indemnifying party will retain the right, at its option, to settle or defend the claim, at its own expense and with its own counsel. The indemnified party will have the right, at its option, to participate in the settlement or defense of the claim, with its own counsel and at its own expense, but the indemnifying party will retain sole control of the claim's settlement or defense. To be indemnified under this section, the party seeking indemnification must not, by any act including but not limited to any admission or acknowledgement, materially prejudice the indemnifying party's ability to satisfactorily defend or settle the claim.

18. Waiver of Jury Trial

Each party waives its right to a jury trial in any court action arising among the parties, whether under this Agreement or otherwise related to this Agreement, and whether made by claim, counterclaim, third-party claim or otherwise.

19. Arbitration

Any dispute arising out of or relating to this Agreement or an Order may, at the option of the parties, be finally settled by arbitration. If, however, Section 18 is held to be unenforceable by a court, then arbitration is mandatory. Any arbitration must be held in accordance with the rules of the CPR Institute for Dispute Resolution and governed by the United States Arbitration Act, 9 U.S.C. Sec. 1, et seq. All arbitration proceedings for disputes relating to domestic Products or Services will be held in Minneapolis, MN metropolitan area. If the dispute relates to Seller's provision of Non-Domestic Products or Services, all arbitration proceedings will be conducted in the English language pursuant to the Rules of Conciliation and Arbitration of the International Chamber of Commerce ("ICC"). The place of arbitration for disputes related to Non-Domestic Products or Services is New York, NY, USA. Any such arbitration proceeding will not include class action arbitration.

20. Governing Law

This Agreement is governed by the laws of the State of Minnesota without regard to its choice of law principles.

21. Presumption of Authority

KGP assumes and is entitled to rely upon the apparent authority of all Customer's employees and agents in placing Orders under Customer's account.

22. Change of Customer's Name or Address; Reorganization

Customer agrees to notify KGP's Credit Department in writing of any changes of name or address, or of any corporate reorganization or change of ownership which results in a change of name or principle place of business of Customer.

23. Software Agreement

Customer agrees to comply with the requirements of any Software license accompanying the Products and will not reverse assemble, reverse compile or reverse engineer the Software. KGP does not sublicense any Software. Title to the Software will at all times remain with the Vendor.

24. Credit Card

KGP will process Customer's Orders using a credit card upon obtaining a valid authorization for the sale amount. Settlement will occur at the time of order. All returned Products will be credited to the Customer's credit card.

25. Notice

Any notices shall be in writing and shall be deemed given: (i) when received if delivered personally or by courier (with written confirmation of receipt); (ii) on the date of transmission if sent by facsimile (with written confirmation of receipt) or by email; or (iii) two business days after being deposited in the mail postage prepaid. Notices to KGP shall be delivered to 3305 Highway 60 West, Faribault, MN 55021, Attn: Legal and notices to Customer shall be delivered to the mailing address listed in the signature block.

26. Survival

The acknowledgements, covenants and obligations of the parties set forth in this Agreement shall survive the expiration or termination of this Agreement, unless inapplicable by their terms.

27. Entire Agreement; Conflicts; Amendments

This Agreement constitutes the entire agreement and understanding between the parties. It supersedes all prior or contemporaneous negotiations or agreements, whether oral or written, relating to its subject matter. Any preprinted terms contained on Customer's Order are void and will have no force and effect. KGP reserves the right to amend this Agreement, from time to time, upon written notice to Customer which such amendment shall be effective for all Orders received after the date notice of the amendment is provided to Customer.

Signed:

Signature

Date

Name of Company (please print or type)

Name and Title (please print of type)

Company Address (please print or type)

Signature required, unless waived at the option of KGP Telecommunications

Please FAX ALL PAGES to (800) 776-3952
Or mail original to:
New Accounts, KSNCAA0300
KGP Telecommunications, Inc.
600 New Century Parkway
New Century, KS 66031-8000