

## Interpretation

"ASECCA" ASECCA Limited a company incorporated and registered in England and Wales with registered number 08140380 whose registered office is at ASECCA, Northgate, White Lund Industrial Estate, Lancaster, LA3 3PA. Vat registration number: 139428787

"Contract" the Seller's acceptance of the Order;

"Goods" any goods agreed in the Contract to be bought by ASECCA from the Seller including but not limited to mobile phones, tablets, laptops and desktops and associated peripherals (including any part or parts of them);

"Order" ASECCA's written instruction to buy the Goods, incorporating these conditions;

"Party" means either ASECCA or the seller

"Parties" means both ASECCA and the seller

"Seller" the person, firm or company who accepts the ASECCA's Order

## **1. Formation of Contract and Term**

- 1.1 No addition, alteration or substitution of these conditions will bind ASECCA or form part of any Contract unless they are expressly accepted in writing by a person authorised to sign on ASECCA's behalf.
- 1.2 Each Order for Goods by ASECCA from the Seller shall be deemed to be an offer by ASECCA to buy goods subject to these conditions and no Order shall be deemed confirmed until the Seller has either expressly given notice of acceptance, or impliedly by fulfilling the Order, in whole or in part. Should the Seller allow collection of Goods by ASECCA or perform any part of The Sellers obligations under this Contract in accordance with an Order without such an acknowledgment, this shall of itself be deemed an acceptance falling within this paragraph.
- 1.3 The Sellers and ASECCA's statutory and common law rights express and implied are unaffected by these terms
- 1.4 Subject to any variation under condition 1.1, these conditions are the only conditions upon which ASECCA is prepared to deal with the Seller and they shall govern the Contract with an exclusion of all other terms or conditions. No terms or conditions endorsed upon, delivered with or contained in the Seller's acknowledgement or acceptance of Order, specification or similar document shall form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.
- 1.5 Subject to condition 1.6, the rights and obligations passing hereunder shall continue for a period of 12 months from the date of this Contract and after that shall continue unless the Contract is terminated by one of the parties giving to the other not less than 3 months' notice.
- 1.6 Either party may terminate this Contract with immediate effect if the other party: (a) commits a material breach of any of the conditions and such breach is not remedied within 30 days of receipt of notice of such breach; or (b) becomes insolvent, is dissolved or liquidated, makes a general assignment for the benefit of its creditors, files or has filed against it a petition in bankruptcy, has a receiver or administrator appointed or ceases business.

## **2. Logistics**

- 2.1 Seller can choose from the various collection methods listed below;
  - **SECURE DEDICATED COLLECTION:** ASECCA will collect the devices from the seller using ASECCA staff members in a solid sided vehicle. ASECCA only takes responsibility for the device and any data on it upon collection.
  - **NON SECURE COURIER COLLECTION:** ASECCA will arrange a courier to visit the customer/user premises to collect their device. This service is not deemed to be secure. We only recommend using this service when the Seller has sufficient security implemented on the devices (encryption) or the device has previously been data-wiped by the Seller's user. ASECCA only takes responsibility for the devices and any data on it upon delivery.

- **NON SECURE POSTAL DROP-OFF:** Seller's Users can ship their devices to ASECCA using a prepaid carton provided by ASECCA. This service is not deemed to be secure. We only recommend using this service when the Seller has sufficient security implemented on the devices (encryption) or the device has previously been data-wiped by the Seller's user. ASECCA only takes responsibility for the devices and any data on it upon delivery.

- 2.2 ASECCA include, in their packaging, guidance to help Seller's users remove data from their device and to remove their user profiles. This advice is solely for guidance purposes to help the Seller and is not a guaranteed methodology from ASECCA. ASECCA do not take responsibility for the effectiveness of these instructions.
- 2.3 Until ASECCA are able to collect the Goods, the Seller will store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until collection. After collection or delivery of the Goods, ASECCA shall safeguard the Goods and take all reasonable steps to prevent their deterioration up to and including valuations as per clause 3 below.
- 2.4 ASECCA's signature, given on any delivery note, or other documentation, presented for signature in connection with delivery of the Goods, is evidence only of the number of packages collected. In particular, it is no evidence that the correct quantity or number of Goods has been delivered or that the Goods delivered are in good condition or of the correct quality.
- 2.5 The Seller warrants to ASECCA that the Goods that are the subject of an Order will conform to the description and quantity of Goods stated in such Order. Determination of the description and quantity of Goods supplied will be the sole responsibility of ASECCA and will be conducted in accordance with condition 3.
- 2.6 It is your responsibility to remove your Sim card from the device/phone before sending it to ASECCA. If the seller fails to remove their sim card from the phone, they agree to hold ASECCA harmless from all claims, losses or damages with respect to the damage of the sim card and its information. Any SIM cards remaining in the devices received at ASECCA will be destroyed.

### **3. Specifications, quality tests, rejection**

- 3.1 All the Goods will be inspected by ASECCA and valued by ASECCA in accordance with ASECCA's published price grades (may vary from time to time) as follows: -
- **FULL WORKING** - fully working and will power up
  - **MINOR TECHNICAL FAULTS** – button issues, hardware issues, (Bluetooth, speaker, camera, microphone, WIFI, GPS, Vibration and Light), and other minor faults.
  - **MAJOR TECHNICAL FAULTS**- cracked/broken screens, screen damage, water damage, housing damage, missing components, broken or bleeding LCD's, SIM reading issue, and other major technical faults.
  - **DOES NOT TURN ON** – no power.
- 3.2 The initial quote submitted to the seller by ASECCA shall be per unit of the goods rather than the volume of the goods. The quote for each brand of phone/device/goods shall be stated in the initial quotation sent by ASECCA to the seller. ASECCA hereby only promises the unit price of each device/phone and not the volume for the duration of the quote (expiry date will be provided in the initial quotation). The final quote/valuation as stated in 3.3 shall reflect the unit price.
- 3.3 The seller shall be notified within 30 days of receiving the goods, the final valuation for such goods. The valuation shall be according to the grading system under condition 3.1 and 3.2. above.
- 3.4 Within 90 days of receiving such notification, the Seller agrees to send a valid VAT invoice to ASECCA for the price notified to the Seller.
- 3.5 If the seller is unsatisfied with the price of any item quoted by ASECCA in the final valuation, the seller must notify ASECCA in writing within 45 working days of any such dissatisfaction (subject to condition 3.6). ASECCA will return the items (though ASECCA reserve the right to return like for like items as it is not always possible to return the very same Goods) within 30 days of receipt of notice from the seller.
- 3.6 Payment will be made by ASECCA to the Seller within 30 days of receiving an invoice from the seller. Payment will not be made in respect to Goods removed from an Order, damaged or in respect to Goods for which like for like items are delivered to the seller under condition 3.4 above.

- 3.7 The seller understands that once goods reach ASECCA's facility, such goods cannot leave the facility due to privacy and data policy reasons (as set in condition 10.1). Thus, goods delivered to ASECCA will either be erased through the appropriate software or destroyed if the goods are regarded as non-functional or non-working/beyond repair. Any destroyed goods shall still incur a processing fee.
- 3.8 The seller understands that goods damaged before reaching ASECCA's facility shall not be paid for and will be destroyed by ASECCA in accordance with condition 3.6. Should most or all of the goods delivered are non-working or beyond repair, the seller understands that ASECCA is not obliged to make payment for such goods. Nonetheless, the seller must pay all required processing fee to ASECCA. We shall duly inform all our sellers of this possibility before moving ahead with an order or creating a contract.

#### **4. Risk**

- 4.1 Risk in the Goods shall pass to ASECCA, when they are delivered or collected in accordance with condition 2.1. Such passing of property and risk shall be without prejudice to any right of rejection arising under these conditions.
- 4.2 The Seller warrants that it is the rightful owner of the Goods prior to delivery and The Seller is entitled to sell and give good and unencumbered title in the Goods to ASECCA and shall indemnify and hold ASECCA harmless from all direct claims, costs, proceedings, damages and expenses (including reasonable legal and other professional fees and expenses) awarded against, or incurred or paid by, ASECCA by reason of any action brought by a third party against ASECCA as a result of a breach of this warranty by the Seller.
- 4.3 Following the passing of property in the Goods to ASECCA. ASECCA have absolute discretion in deciding the end use and user of the Goods, subject always to condition 8 below.

#### **5. Indemnities and limitation of liability**

- 5.1 The Goods are second hand and accordingly ASECCA agrees to accept the Goods in their current state after having inspected and valued them in accordance with quality and fitness for purpose. Accordingly, the Seller gives no warranties in relation to the quality or fitness for purpose either express or implied.
- 5.2 Any breach of data protection, confidentiality or privacy, including any breach of the warranties given at conditions 8.3 and 10.4, by ASECCA will be notified to the seller within 24 hours and ASECCA shall indemnify and hold the seller harmless from all claims and all liabilities, costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by the Seller as a result of a breach of this warranty by ASECCA.
- 5.3 In no event shall the Seller's liability against ASECCA exceed the price paid by ASECCA in respect of an Order.

#### **6. Assignment and subcontracting**

- 6.1 Neither party may assign or transfer their rights or obligations herein this Contract either in part or in full to any third party without the other party's written consent.
- 6.2 Neither party may, without the other party's written consent, subcontract this Contract or part thereof.

#### **7. Cancellation**

- 7.1 If either the Seller or ASECCA are delayed or prevented from performing their obligations under this agreement, by circumstances beyond the reasonable control of either Party (including without limitation any form of government intervention, strikes and lock-outs relevant to an Order, breakdown of plant/facility or delays by third parties concerned, an act of God, government regulations or restrictions) such performance shall be suspended, and if it cannot be completed within two calendar months after the due date as specified in an Order or herein this agreement, such Order may be cancelled by either

party. This condition can only have effect if it is called into operation by the party wishing to rely on it giving written notice to the other to that effect.

## **8. Confidentiality and Privacy**

- 8.1 Both parties agree not to divulge, disclose to any third party (except employees, affiliates or contractor performing services on behalf of ASECCA and seller alike, and accepting a like obligation of confidentiality, and then only to the extent necessary for the performance of this Contract) any and all information given by the other party in connection with an Order, or which becomes known to a party through its performance of work under this Contract. Neither party will mention the other party in connection with this Contract or disclose the existence of this Contract in any publicity material or other similar communication to third parties without prior consent in writing of the other party. ASECCA reserve the right to make reference to the Seller as a customer in public domain. Information given, obtained or which arises as a result of this Contract and/or an Order must only be used for the purposes of this Contract and/or such Order and shall not be disclosed or used by either party in any way without the prior written consent of the other party.
- 8.2 ASECCA reserve the right to make reference to the Seller only as a customer of ASECCA in public domain in accordance with 8.1 for the duration of this Contract.
- 8.3 For the avoidance of doubt, information for the purposes of this condition 8 includes without limitation personal data, databases, payment and delivery information, and any and all information that is stored on any Goods prior to being reset and wiped, including any information stored on any SIM or SD Card contained within the Goods prior to its destruction.
- 8.4 ASECCA warrant to keep confidential and not to use or disclose to a third party without prior written consent of the Seller, any personal or other data contained in the Goods received and/or any SIM or SD card contained therein. Any information obtained will be dealt with in accordance with data protection laws and removed from any Goods and safely destroyed in its entirety.
- 8.5 This condition 8 shall survive termination of these terms however arising.

## **9. Self-billing Agreement**

- 9.1 Unless the seller wishes to raise their own invoices, ASECCA Limited will self-bill The Seller, for all Goods collected on an individual basis.
- 9.2 The self-billing agreement will be effective for the duration of the contract and can be reviewed by The Seller on a rolling 12 months basis. During this period ASECCA Limited will raise invoices on The Seller's behalf.
- 9.3 The Seller agrees not to raise the VAT invoices for goods collected and are covered by this contract or order.
- 9.4 Both parties agree to retain copies of the self-bill VAT invoices for The Goods collected for inspection by HMRC officers, should the need arise.
- 9.5 The Seller agrees to notify ASECCA Limited should The Seller cease to be VAT registered, transfer business as a going concern or becomes registered under another VAT number.

## **10. Data wiping and security policy**

- 10.1 All data-bearing devices received by ASECCA will be wiped using HMG Infosec 5 Lower Level – using Blancco software. In the instance that we cannot successfully wipe a device – we will physically shred the device. Sanitisation details will be provided with the pricing documents in 3.3.
- 10.2 Any SIM or SD card found will be securely destroyed by ASECCA.
- 10.3 ASECCA warrant that any information that is transferred to ASECCA's systems as a result of the above processes will be deleted and destroyed in accordance with condition 8 above.

10.4 In no event shall the seller hold ASECCA responsible for any wiped-out information or destroyed goods herein this agreement or stated in the order.

## 11. Disclaimer

11.1 Whilst every effort has been made to ensure that all descriptions of Services available in this contract correspond to the actual Services, we are not responsible for any variations from these descriptions. All services are provided “as is” and we do not make any guarantee that it shall be fit for a particular purpose or that it will be suitable to you.

11.2 Any use of our service is made at your own risk. When you deliver the goods, you understand that any valuation is dependent on our testing. You understand that goods provided maybe all destroyed if they do not meet our grading system (non-working or beyond repair).in the event this happens, we shall not be held liable.

## 12. Limitation of liability

12.1 To the maximum extent permitted by law, ASECCA accepts no liability for any direct or indirect loss or damage, foreseeable or otherwise, including any indirect, consequential, special or exemplary damages, loss of profits, loss of data arising from the use of our service. Should ASECCA be found in breach of any terms of this agreement or any of the above-mentioned losses, any compensation or relief to you shall only be to the extent of ASECCA’s insurance policy/claim (Insurance cover-£5 million public insurance and £5million product insurance)

12.2 ASECCA will not be held liable for any act or omission by the seller which result to a loss or damage to the seller or its business.

## 13. Miscellaneous

13.1 Any default, delay or omission of any of the provisions of this Agreement by either Party will not be construed as a waiver of any subsequent breach of the same or other provisions. We are entitled to still pursue any omitted or failed payment by you at any time.

13.2 In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

13.3 Any dispute arising from this Agreement shall be resolved through mediation. If the dispute cannot be resolved through mediation, then the dispute will be resolved through binding arbitration conducted by an expert arbitrator from England or as maybe agreed upon by the parties. Any such mediation and arbitration fees shall be borne by the party bringing a claim.

13.4 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.