

Armada Solutions Ltd

Terms and Conditions of Business

1 Interpretation

1.1 In these Conditions unless the context otherwise permits:-

“**Authorised Representative**” means a person whose job is that of Director, Senior Director or Managing Director.

“**Customer**” means the person, firm, company, entity, or organisation with whom Armada contracts for the sale of products and/or the supply of services.

“**the conditions/ these conditions**” means the standard terms and conditions of sale set out in this document or such replacement standard terms and conditions as are in force at the date of the contract and which at that date appear on Armada’s web site at www.armada-solutions.com and/or which are available on request from Armada’s principle trading address at Unit 4, Cookstown Enterprise Centre, Derryloran Industrial Estate, Cookstown, Co. Tyrone, BT80 9LU.

“**the contract**” means any contract for the purchase and sale or other supply of products and/or the supply of services by Armada to a customer.

“The conditions/these conditions” shall apply to sales of all products currently offered by Armada including special order product except as otherwise noted below (products).

The term “**special order product**” as used herein shall mean products that are not currently listed in Armada’s product listing or have been configured to Purchaser’s specification.

“**Products**” means any products (including, for the avoidance of doubt software and instalments of the products or any parts of or for them) sold by Armada to a customer.

“**Services**” means any services supplied by Armada to a customer.

1.2 The headings in these conditions are for convenience only and shall not affect their interpretation.

2 Basis of Sale

2.1 All contracts between Armada and a customer shall be governed by these conditions to the exclusion of any other terms and conditions including without limit any terms on or referred to in any purchase order. It is the customer’s responsibility to be aware of the conditions as current from time to time. The customer’s acceptance of these conditions shall be made (in respect of the first contract and all subsequent contracts) either by (1) Customer returning a signed and dated Order Confirmation as supplied by Armada Solutions Ltd, (2) Customer providing a purchase order to Armada or (3) Customer accepting products or Services from Armada whichever comes first.

2.2 No variation to these conditions shall be binding unless agreed by letter signed by an authorised representative of Armada.

2.3 No employee or agent of Armada other than an authorised representative has any authority to make any representation at all concerning products or services and an authorised representative has no authority to make such representation other than by letter (an “authorised representation”) and accordingly customer agrees that in entering into any contract it does not rely on any unauthorised representation and customer agrees it shall have no remedy in respect of any unauthorised representation (unless made fraudulently).

3 Customer Identification

3.1 In placing an order customer may utilise one or a combination of company name, account name, account number and other forms of identification including password or other code issued to customer (together and individually “customer’s identification” or “customer identification”).

3.2 It is the customers responsibility to keep the customers identification confidential. Customer has the sole responsibility for its customer identification. Customer shall immediately inform Armada in case of loss of password or in case of any abuse or attempted abuse of customer password or other customer identification. Customer agrees that customer is entirely responsible for use of customer’s identification and that it is customer’s responsibility to have in place security measures and procedures to ensure use of its customer identification only by authorised personnel for authorised purposes.

3.3 Customer agrees that Armada is entitled to rely absolutely on any orders placed on Armada which have utilised customer’s identification and to deliver as directed by such orders and invoice and be paid in respect of such orders.

3.4 Customer agrees that any order placed via electronic means mentioning or utilising customer’s identification is a valid and binding purchase order.

3.5 Customer acknowledges that Armada cannot guarantee the security of the Internet and the possibility of interception or corruption of data transmitted from customer to Armada using correct customer identification exists and that Armada is nonetheless entitled to rely on data transmitted in the form it is received at Armada.

3.6 Armada Solutions has the right to accept or decline any purchase order submitted by customer.

4 Armada Information

4.1 All product pricing, description, availability and related information ("Information") provided by Armada, in any form, is the property of Armada. Armada hereby grants customer a limited, non-exclusive, non-transferable license to use the information for its internal use only for the purpose of customer's purchases. Armada shall be entitled to stop the provision of information at any time without notice. Purchaser agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the information or utilise the information for any purpose except as permitted herein. Armada makes no warranty, either express or implied on the information or its accuracy. All information is provided to purchaser "as is." If Armada provides information to customer by electronic means, customer agrees to update such information regularly to ensure its accuracy. Customer agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the information or utilise the information for any purpose except as permitted herein. Specifically but without limitation customer is not entitled to utilise information for any purpose other than in its normal course of business and is not entitled to use, reproduce or display the information in any way, which in Armada's opinion; (1) would enable it to be identified as information obtained from Armada (2) would enable comparison of the information with other suppliers information relating to products or (3) could be damaging to Armada's business interests.

5 Orders and Specifications

5.1 The customer shall be responsible to Armada for ensuring the accuracy of the terms of any order.

5.2 Armada reserves the right to make any changes in the specification of the products which are required to conform with any applicable safety or other statutory requirements. These changes will be duly notified to the customer. The customer cannot cancel the order placed provided the changes do not alter the basic terms of the contract. For other types of changes, the possibility of cancellation will be subject to manufacturer's discretion.

5.3 The withdrawal or cancellation of any order which has been placed by customer can only take place by means of letter, fax or e-mail to an Authorised Representative of Armada to that end.

5.4 Notwithstanding any other terms of these conditions it is agreed that the provision or display of product pricing and other information (as defined in clause 4.1) by Armada to customer does not amount to an offer by Armada to sell such product at that price or on any other terms. Supply of such information is only an invitation to treat. An order by the customer for product or services shall be the offer. In the case of orders placed by electronic means if Armada shall accept such order it shall do so by delivering the product to the customer. Notwithstanding any order confirmation or acknowledgement the acceptance of any order placed by electronic means shall not take place or be deemed to have taken place until such time as the product shall have been so delivered.

5.5 In the case of orders placed by electronic means only, notwithstanding any acceptance by Armada of any offer for any product, if there has been a material and obvious pricing error by Armada, Armada shall be entitled within 30 days of its acceptance of such offer to either invoice the customer for the customer's true price of the product at the date of the order or, if the customer shall prefer, collect the product at Armada's expense and credit the customer for any charges (e.g. price and freight) invoiced by Armada.

5.6 Special order products may require prepayment and may be subject to additional fees.

6 Price of the Products

6.1 All prices are subject to change without notice and subject to the provisions of clause 6.2 and clause 5.5, will be established at the time the order which gives rise to contract is received by electronic means or in other cases confirmed or acknowledged by Armada.

6.2 If customer agrees to place an order for products not available at the time of the order (a "Backorder") such order shall be irrevocable and be deemed to be for the product at the price established at the time the backorder is taken or confirmed. Should there be any price increase due to a rise of its suppliers price to Armada or direct costs to which Armada becomes subject (including without limit costs resulting from currency fluctuation) Armada shall only increase its price by such level as is necessary.

6.3 Unless otherwise agreed by letter by an Authorised representative of Armada all prices exclude the cost of delivery.

6.4 All prices and charges are exclusive of any applicable Value Added Tax, which the customer will be additionally liable to pay to Armada.

7 Terms of Payment.

7.1 All goods including hardware and software remain the sole property of Armada Solutions Ltd until such time as payment is received in full. Debt Recovery costs and Interest may be charged on late payments in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

7.2 Unless Armada shall have previously agreed in writing with the customer that products shall be supplied on credit, payment for the products shall be made in full by the customer with the customer's order or on delivery or collection of the product as determined by Armada.

7.3 Unless Armada shall have previously agreed in writing with the customer that services shall be supplied on extended credit terms, payment for the services shall be made in full by the customer within 30 calendar days of the date of issue of an invoice for such services.

- 7.4 Where Armada has agreed to supply the products on credit, customer shall pay the price of the products within 15 working days of the date of Armada's invoice notwithstanding that the property in the products has not passed to the customer. Invoices will be dated the day of dispatch of the products. Armada shall be entitled at its absolute discretion to alter payment terms (other than on concluded contracts) and withdraw or alter any credit limit granted at any time without notice.
- 7.5 The time of payment of the price shall be of the essence of the contract. If the customer fails to make a payment on the due date, then without prejudice to any other right or remedy available to it Armada shall be entitled to:-
- 7.5.1 Cancel the Contract or suspend any further deliveries or suspend any services to the customer.
- 7.5.2 Appropriate any payment made by the customer to such of the products as Armada may think fit (notwithstanding any purported appropriation by the customer).
- 7.5.3 Charge the customer interest (both before and after the judgement) on the amount unpaid at the rate of 8% above the prevailing Bank of Ireland base rate per annum from time to time until payment in full is made, such interest being calculated on a daily basis.
- 7.5.4 Exercise its statutory right to interest and debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998, if not paid according to agreed credit terms.

8 Delivery.

- 8.1 Delivery of the products shall be made by Armada to such place as shall have been agreed between Armada and the customer. Unless the customer shall have notified Armada within 5 working days of the date of Armada's invoice that the products have not been delivered, then delivery shall be deemed to have taken place in accordance with the contract and the customer shall not be entitled to raise any claim of short or mis-shipment. Armada is entitled to issue its invoice on or after the date of dispatch of products from its place of business.
- 8.2 Armada shall be entitled to assume that any person who both reasonably appears and claims to have authority to accept delivery, who signs a note in respect of the products on behalf of the customer does in fact have the authority.
- 8.3 Any dates quoted for the delivery of products are approximate only and Armada shall not be liable for any delay in delivery of the products howsoever caused.
- 8.4 Partial delivery is allowed unless otherwise mutually agree by both parties. Failure by Armada to deliver the rest of the goods shall not entitle the customer to treat the order as a whole as repudiated.
- 8.5 The customer shall bear all the costs associated with the unjustified refusal of delivery of products. If the refusal is made on the grounds that the order was wrongly placed (i.e. wrong product, wrong pricing, etc.) and the refusal is accepted by Armada, Armada reserves its right to charge accordingly, additional fees for the return transportation and administrative expenses related thereto, and original carriage costs will not be re-imbursed.

9 Risk and Property

- 9.1 Risk of damage to or loss of products shall pass to the customer at the time of delivery or if the customer unjustifiedly fails to take delivery of products at the time when Armada has tendered delivery of the products.
- 9.2 Notwithstanding delivery and the passing of risk of the products or any other provisions of these conditions the property in the products shall not pass to the customer until Armada has received in cash or cleared funds, payment in full of the price of the products, and all other products and services previously sold or supplied by Armada to the customer for which payment is then due.
- 9.3 Until such time as the property in the products passes to the customer (and provided the products are still in existence and have not been re-sold) Armada shall be entitled at any time to require the customer to deliver up the products to Armada and if the customer fails to do so, forthwith to enter upon any premises of the customer or any third party where the products are stored and repossess the products.

10 Warranties and Liability

- 10.1 Armada does not manufacture the products (or where the products comprise computer software, does not publish or license the software) and subject to the conditions set out below in this clause 10, Armada sells the products with the benefit of the manufacturer's or publisher's or licensor's ("publisher's") warranty (as the case may be).

10.2

10.2.1 Armada will accept liability for defective products only to the extent that Armada is entitled to make a claim under the manufacturer's or publisher's, Dead On Arrival, warranty or other defective goods terms and actually obtains from the manufacturer or publisher a refund credit, repair or replacement of the defective products. Processing of these defective products shall be made according to the manufacturer's procedure and the instructions set in clause 10.4 below. Armada cannot and shall have no obligation to accept a return of and/or grant a credit for product not returned compliant with the manufacturer's procedures.

10.2.2 Armada shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow Armada's or the manufacturer's or publisher's instructions (whether oral or in writing), misuse or alteration or repair of the products without Armada's approval.

10.2.3 Armada shall be under no liability under the above warranty if the total price of the products has not been paid.

- 10.3 All warranties, conditions or other terms implied by common law or statute, or otherwise in connection with the sale of goods or services (save in the case of goods as to title) are excluded to the fullest extent permitted by law.
- 10.4 Any claim by the customer which is based on a defect in the quality or condition of the products shall be notified to Armada's Customer Services Department in writing. Upon notification of any such claim by the customer Armada shall either notify the customer whether the policy of the manufacturer of the products is to deal with the customer direct (in which case the customer shall deal with the manufacturer direct provided Armada gives sufficient detail to enable the customer to do so) or shall provide the customer with an RMA number (in which case the customer shall return the products to Armada in their original UNMARKED packaging together with details of the RMA number and the customer's name and address). This clause 10.4 shall only apply to products customer is entitled to return to Armada as provided in these conditions.
- 10.5 The customer may request that Armada act on their behalf in dealing with manufacturers for the repair or replacement of defective products. Armada shall be entitled to invoice the customer and be paid for any such services as provided for in these conditions.
- 10.6 Armada shall not be liable to the customer for any economic or financial loss or damage (including without limit any loss of profits, loss of revenue, liabilities incurred by the customer to third parties, or additional expenses incurred or the cost of time spent) or any consequential, indirect, or special loss or damage, costs, expenses or other claims for consequential compensation whatsoever (including without limit loss of or damage to data or loss of goodwill) incurred or suffered by the customer and in every case howsoever caused or arising (and whether caused by the negligence of Armada, its employees or agents or otherwise).
- 10.7 Armada's liability for direct loss or damage arising from damage to tangible property for which Armada is liable shall be limited to the Vat exclusive price of the relevant product or service in connection with which any claim for damage or loss is made.
- 10.8 Nothing in these conditions shall in any way exclude or limit any liability Armada may have for death or personal injury caused by its negligence.
- 10.9 Armada shall not be liable to the customer or be deemed to be in breach of any contract by reason of any delay in performing or any failure to perform any of Armada's obligation in relation to the products if the delay or failure was due to any cause beyond Armada's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond Armada's reasonable control.
- 10.9.1 Act of God, explosion, flood, tempest, fire or accident.
- 10.9.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition.
- 10.9.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government or parliamentary or local authority.
- 10.9.4 Import or export regulations or embargoes.
- 10.9.5 Strikes, lock outs or other industrial actions or trade disputes (whether involving employees of Armada or a third party).
- 10.9.6 Difficulties of Armada's supplier in obtaining raw materials, labour, fuel, parts or machinery.

11 Returns and Repairs.

- 11.1 Except for special order products, which are expressly excluded from these rules and cannot be returned under any circumstances, if Armada agrees to accept the return of any products (other than for the purpose set out in clause 10 above) or agrees to carry out repairs to other products which have not been purchased from Armada or agrees to repair products which are out of warranty, the customer shall not send the same to Armada unless they are accompanied by an RMA number previously advised by Armada's customer services department and a copy of the suppliers sales invoice and are sent in their original packaging or same or similar material.
- 11.2 The customer shall notify Armada within 14 working days of any delivery discrepancies other than for the purposes set out in clause 10. If Armada issues a returns number (RMA), goods must be returned to Armada within 10 working days of the date thereof.
- 11.3 If Armada has agreed to carry out repairs or to replace products (or any parts thereof) other than for the purpose set out in clause 10 above, the customer irrevocably authorises Armada to carry out such repairs or provide such replacements as shall place the products in proper working order.
- 11.4 Armada shall accept no liability for any damage to or loss in transit to products returned to Armada whether under this clause or under clause 10 above.
- 11.5 If Armada has agreed to accept the return of products other than for the purpose set out in clause 10 above or than for the purpose of carrying out any other repair or replacement the products must be returned in their original packaging and in a clean re-saleable condition failing which Armada will refuse to accept the same and the customer shall remain liable for the price thereof.

12 Insolvency of Customer

12.1 This clause applies if:-

- 12.1.1 The customer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation otherwise than for the purpose of amalgamation or reconstruction.
- 12.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the customer or
- 12.1.3 The customer ceases or threatens to cease carrying on business or

12.1.4 Armada reasonably apprehends that any of the events mentioned above is about to occur in relation to the customer and notifies the customer accordingly.

12.2 If this clause applies then without prejudice to any other right or remedy available to Armada, Armada shall be entitled to cancel the contract or suspend any further deliveries or services under the contract without any liability to the customer and if the products have been delivered and not paid for then the price shall become due and payable notwithstanding any previous agreement or arrangement to the contrary.

13 Configuration

13.1 On agreement Armada will provide configuration services to customer. Configuration services will be at the price agreed at the time the order is taken or confirmed. The customer shall be solely responsible for the accuracy of its order, the specification of the components and their configuration and for ensuring that the configured product specified is satisfactory for the purposes for which it is required including without limit that it has sufficient overall functionality, and will support, be compatible and inter-operable with any hardware, software or middleware with which it is intended to operate.

13.2 Configuration services will have a warranty of 21 days from the date of delivery to the customer. Armada's sole liability (and the customers sole remedy against Armada) in respect of any defective services for which Armada is responsible shall be repair by Armada or at Armada's option replacement of the product on which the services have been performed. (if any alleged defect shall be attributable to defect in product line the provisions of clause 10 shall apply). Claims in respect of defective services must be made within 21 days of the date of delivery of the configured product.

14 General

14.1 Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

14.2 No waiver by Armada of any breach of the contract by the customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.3 If any provision of these conditions is held by any authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provisions in question shall not be affected thereby.

14.4 The contract shall be governed by the laws of Northern Ireland and the customer submits to the exclusive jurisdiction of the courts of Northern Ireland.