



ANT general terms and conditions

1. Definitions

- 1.1 In this Agreement the following expressions shall have the following meanings:-
- “**Vendor**” - *Advanced Network Technologies Limited*, whose registered office is 4 Mercury Park, Amber Close, Tamworth, B77 4RP
 - “**Customer**” - a person or company buying or using products supplied by *Advanced Network Technologies Limited*
 - “**Products**” - the items of hardware and/or software identified in the invoice
 - “**Documentation**” - the instruction manuals user guides and other information including manufacturer manuals supplied by Vendor in, at its discretion, either printed or machine readable form to Customer
 - “**Invoice**” - acknowledgement of Products ordered by Customer, sent by Vendor
 - “**Payment Date**” - the date that the part of the Purchase Price relating to a particular Product and value added tax thereon have been paid in full to Vendor
 - “**Due Date**” - the date payment is due based on the payment terms identified on the *Invoice* and/or Invoice sent by Vendor

2. Products

Vendor agrees to sell and Customer to purchase the Products and the Documentation upon the terms and conditions of this Agreement and in consideration of the payment of the Purchase Price by Customer.

Where the Products comprise software in whole or part, use of those Products by Customer will be subject to the terms of the manufacturer's licence with which Customer is obliged to familiarise itself.

3. Purchase price

- 3.1 Any sums due to or quoted by Vendor or specified herein are stated exclusive of any applicable taxes (including without limitation VAT), duties, fees or other government levies, delivery and insurance costs which may be incurred or imposed on or in respect of the Products. If such monies become due in connection with the delivery of the Products, they shall be paid by Customer
- 3.2 If Customer fails to pay any sum due under this Agreement by the Due Date, Vendor shall be entitled to charge interest on a daily basis on all overdue amounts and on outstanding interest from the date of such failure until payment (both before and after judgement) at an annual rate 4% above the Base Rate for the time being in force of HSBC Bank plc
- 3.3 For the purpose of this Agreement, time of payment shall be of the essence

4. Delivery

- 4.1 Customer shall make available to Vendor free of charge such labour and assistance as Vendor shall reasonably require to perform its duties hereunder
- 4.2 Vendor shall not be responsible for the removal of doors, widening of entrances or any other structural work of any description for the purpose of delivering or installing the Products. In the event of Customer wishing to delay the delivery, Vendor will hold the Products in store and issue its invoice in the same way and subject to the same conditions as if the Products had been delivered. In such circumstances, Vendor reserves the right to charge any costs it reasonably incurs for storage of the Products
- Customer shall allow Vendor including its employees, agents and sub-contractors such reasonable access to its premises as it shall from time to time require to perform its obligations under this Agreement
- All times and dates given for the delivery of Products are given in good faith, but without any responsibility on the part of Vendor

5. Acceptance

Customer shall not be entitled to reject any Product unless it can establish to Vendor's reasonable satisfaction within 14 days of delivery that it does not in any material respect conform to the documentation.

6. Title to and risk in the products and documentation

- 6.1 Title to a Product shall not pass to Customer until the Payment Date.
- 6.2 Until the Payment Date in respect of any Product, Customer shall not be entitled to sell transfer lease charge assign by way of security or otherwise deal in or encumber that Product and the relationship between Vendor and Customer in respect of such Product including any proceeds of sale or other consideration therefor shall be a fiduciary one.
- 6.3 Without prejudice to any other legal remedies it may have, Vendor shall at any time during normal business hours be entitled to enter the premises of Customer (on reasonable written notice to Customer) and remove any Products title in which has not passed pursuant to Clause 6.1 above in the event that either:-
- 6.3.1 Customer fails to effect payment in full of all sums due hereunder by the Payment Date; or
- 6.3.2 Prior to the Payment Date Customer convenes a meeting of its creditors or a proposal is made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) Customer's creditors or if Customer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of Customer or if a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of Customer or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).
- 6.4 If, in breach of Clause 6.2 above Customer sells any Product prior to the Payment Date then any proceeds of sale in respect thereof and all rights arising under or in respect of said sale shall be held (in the case of the proceeds of sale in a separate account) by Customer as trustee for Vendor.

- 6.5 Risk in items of the Products shall pass to Customer upon the date of delivery of such item. With effect from the date of delivery of any Product up to and including the Payment Date Customer shall insure each Product which has been delivered to it for its full replacement value with a reputable insurance company.

7. Limitation of liability

- 7.1 Vendor will have no liability to Customer for any loss of profit, revenue, data or goodwill or for any liability of Customer to any third party.
- 7.2 Vendor is not liable for any indirect loss, consequential loss, loss of profit, revenue, data or goodwill howsoever arising suffered by Customer or for any wasted management time, failure to make anticipated savings or liability of Customer to any third party arising in any way in connection with this Agreement or otherwise whether or not such loss has been discussed by the parties pre-contract or for any account for profit, costs or expenses arising from such damage or loss.
- 7.3 Without prejudice to Clause 7.6, no matter how many claims are made and whatever the basis of such claims, Vendor's maximum aggregate liability to Customer under or in connection with this Agreement in respect of any direct loss (or any other loss to the extent that such loss is not excluded by Clauses 7.1-7.2 above or otherwise) whether such claim arises in contract or in tort shall not exceed a sum equal to 125% the sum paid by Customer for the Product(s) in relation to which such claim arises.
- 7.4 Customer acknowledges that some Products are not manufactured by Vendor and that the Purchase Price has been calculated on the basis that should Customer wish to make any legal claim in respect of any Product it shall do so against the manufacturer and, accordingly, Customer undertakes to do so.
- 7.5 Customer agrees that it is in a better position to foresee and evaluate any loss it may suffer in connection with this Agreement and that the terms of this Agreement take into account the limitations and exclusions in Clauses 7-8 and that Customer will effect such insurance as is suitable having regard to its particular circumstances and the terms of this Agreement.
- 7.6 None of the Clauses above shall apply so as to restrict liability for death or personal injury resulting from the negligence of Vendor or its appointed agents.

8. Warranties

- 8.1 Vendor warrants that it is legally entitled to grant Customer the rights granted herein and that these rights are and will remain free from any charge or encumbrance.
- 8.2 For 90 days from the date of delivery relating to a Product, Vendor warrants that the Product is free from material defects in material and workmanship and that once installed and subject to having been used in the appropriate manner and not been modified, repaired or interfered with, otherwise than by Vendor, the Product will work in all material respects accordance with the Documentation.

Vendor undertakes to use its reasonable endeavours to pass on the benefit of any unexpired manufacturer warranties to Customer.

In the event of any breach of Clause 8.2, Customer's only remedy and Vendor's only liability will be, at Vendor's choice, either a refund of any monies paid for the offending Product or the

replacement of such Product with equivalent non-defective or non-offending products, in which case carriage and insurance is to be arranged and paid for by Customer.

- 8.5 Some Products supplied by Vendor to Customer are third party products not manufactured by Vendor. Accordingly, subject to the warranties herein, they are delivered on an “as is” basis and unless Customer has entered into a maintenance contract with Vendor which covers the problem in question, Vendor shall not have any responsibility/liability for such Product.
- 8.6 Save as expressly stated in this Agreement, all conditions and warranties whether express or implied, statutory or otherwise, which relate to the condition or fitness for any purpose of the Products or any part thereof or to the care or skill with which the Products or any part thereof has or should have been (or, as the case may be, will or ought to be) prepared are hereby expressly excluded.
- 8.7 Customer hereby warrants that it has not been induced to enter into this Agreement by any prior representations whether oral or written except as expressly contained in this Agreement and Customer hereby waives any claim for breach of any such representations which are not so contained.

9. Termination

- 9.1 Notwithstanding anything else contained herein, this Agreement may be terminated:-
- 9.1.1 by either party forthwith on giving notice in writing to the other if the other commits any material or persistent breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within thirty (30) days after the receipt of a request in writing from the other party so to do, to remedy the breach (such request to contain a warning of such party's intention to terminate);
- 9.1.2 by either party if the other party shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) the other party's creditors or if the other party shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction);
- 9.1.3 by Vendor on 7 days' notice if Customer fails to pay any sum due hereunder within 28 days of the Due Date therefor.
- 9.2 Any termination of this Agreement pursuant to this Clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

10. Confidentiality

- 10.1 Customer shall, and shall procure that its employees, agents and contractors use their best endeavours to safeguard the Product, and to preserve the confidentiality of all know-how, proprietary information and business information of Vendor relating thereto which may have been entrusted to Customer and Customer shall not, except as permitted by UK law, by this Agreement or with the written authority of Vendor make use of such information or disclose such information or details of any of the terms of this Agreement to third parties except:-
- 10.1.1 to the extent that such disclosure is strictly necessary to enable Customer to comply with its obligations hereunder; or
- 10.1.2 in pursuance of or to the extent that there may be a statutory obligation to do so; or
- 10.1.3 if through no act or failure to act on the part of Customer, its employees, agents or contractors any such information shall enter the public domain.

Customer shall ensure that its employees, agents and contractors are aware of and comply with the confidentiality and non-disclosure provisions contained in this Clause and Customer shall indemnify Vendor against any loss or damage which Vendor may sustain or incur as a result of any breach of confidence by any of its employees, agents and contractors.

- 10.3 If Customer becomes aware of any breach of confidence by any of its employees, agents or contractors it shall promptly notify Vendor and at its own expense give Vendor all reasonable assistance in connection with any proceedings which Vendor may institute against any such employees, agents or contractors or, if Vendor so wishes, take such action against such employees, agents or contractors as Vendor may request.

11. Leases

- 11.1 In the event that Customer wishes to enter into any financial arrangement with a third party for the lease or lease purchase or similar financial arrangement in respect of a Product Customer shall notify Vendor of its said intention.
- 11.2 If Customer concludes such financial arrangement with a third party, and if that agreement or arrangement provides for title to pass to the third party, Customer shall, notwithstanding anything to the contrary, remain liable under the provisions of this Agreement including those provisions as to payment unless and until the third party discharges the full Purchase Price to Vendor.
- 11.3 In the event that such a third party as referred to in Clause 11.2 above fails to discharge the full Purchase Price to Vendor, Customer shall stand as guarantor thereof

12. General

- 12.1 Subject to Clause 12.2, this written Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and neither relied on any representation made by the other party unless such representation is expressly included herein. Nothing in this Clause 12.1 shall relieve either party of liability for fraudulent misrepresentations and neither party shall be entitled to any remedy for either any negligent or innocent misrepresentation except to the extent (if any) that a court or arbitrator may allow reliance on the same as being fair and reasonable.
- 12.2 No change, alteration or modification to this Agreement shall be valid unless in writing and signed by duly authorised representatives of both parties.
- 12.3 Subject to contrary written agreement, these terms and conditions will otherwise than in relation to the quantification of the price to be paid and the identity of the goods to be delivered govern all orders for any other hardware or third party software placed by Customer subsequent hereto and shall prevail over, and supersede any other terms and conditions referred to, offered or relied upon by Customer.
- 12.4 If any provision of this Agreement or part thereof shall be void for whatever reason, it shall be deemed deleted and the remaining provisions shall continue in full force and effect.
- 12.5 The rights and obligations of Customer under this Agreement are personal to Customer and Customer undertakes that it shall not, without the prior written consent of Vendor, assign, lease, charge, sub-license, or otherwise transfer such rights and obligations in whole or in part.
- 12.6 Any notice given pursuant hereto may be served personally or sent by pre-paid registered letter or recorded delivery to the addresses given or to the parties' registered office if different. Such notice shall be deemed to have been duly served upon and received by the addressee, when served personally, at the time of such service or, when posted, 48 hours after the same shall have been put into the post correctly addressed and pre-paid.
- 12.7 Neither party shall be liable for any loss suffered by the other party or be deemed to be in default for any delays or failures in performance hereunder (other than in relation to payment) resulting from acts or causes beyond its reasonable control or from any acts of God, acts or regulations of any governmental or supra-national authority.
- 12.8 Any delay or forbearance by either party in enforcing any provisions of this Agreement or any of its rights hereunder shall not be construed as a waiver of such provision or right thereafter to enforce the same. Vendor reserves the right to sub-contract any of the work required to fulfil its obligations hereunder.
- 12.9 Clause headings have been included in this Agreement for convenience only and shall not be considered part of, or be used in interpreting, this Agreement.
- 12.10 This Agreement shall be governed by the laws of England and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.