

1. Interpretation

In these terms and conditions the following expressions will have the following meanings:

- 1.1 "Seller" means Workstation Specialists (Workstation Specialists Limited - Company No. 08677571) Registered Office: Truro House, Stephenson's Way, Wyvern Business Park, Derby, DE21 6LY.
- 1.2 "Buyer" means the person placing an Order with Seller.
- 1.3 "Default" means any act, representation or omission by Seller, its officers, employees or agents, or which is done, made or not done (as the case may be) as a result of any act, representation or omission of any of them (whether deliberate or negligent), in connection with or in relation to this agreement as a result of which Seller is legally liable to Buyer or any third party whether in contract, tort or otherwise. A number of Defaults which together result in or contribute to substantially the same loss or damage shall be treated as one Default occurring on the date of the occurrence of the last such Default.
- 1.4 "Products" means the hardware or software the subject of the Order placed with Seller.
- 1.5 "Conditions" means these terms and conditions which will govern the supply of the Products and Services.
- 1.6 "Order" means the order placed by Buyer with Seller for the supply of the Products or Services.
- 1.7 "Contract" means the contract for the supply of the Products or Services concluded by the placing of an Order which is accepted in writing by Seller.
- 1.8 "Services" means any training, consultancy, hardware or software services and support or other service provided by Seller.
- 1.9 A reference in these terms and conditions to:
 - 1.9.1 a "clause" or the "preamble", unless the context otherwise requires, are reference to clauses, or to the preamble to these terms and conditions.
 - 1.9.2 a "person" shall include bodies corporate an unincorporated associations, partnerships and individuals.
 - 1.9.3 "include" or "including" shall be construed without limitation.
- 1.9.4 a document, agreement, terms and conditions, statute, statutory provision, statutory instrument, European directive or other law, regulation or order is a reference to that document, agreement, terms and conditions, statute, statutory provision or statutory instrument, European directive or other law, regulation or order as it may be amended, modified, re-enacted or replaced from time to time.

2. Personal details and data protection

- 2.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 2 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 2.2 The parties acknowledge that:
 - 2.2.1 if Seller processes any personal data on the Buyer's behalf when performing its obligations under these terms & conditions, the Buyer is the data controller and Seller is the data processor for the purposes of the Data Protection Legislation (where Data Controller, Data Processor, Personal Data and Data Subject have the meanings as defined in the Data Protection Legislation);
 - 2.2.2 the personal data may be transferred or stored outside the EEA or the country where the Buyer is located in order to carry out the Services and Seller's other obligations under this Agreement.
- 2.3 Without prejudice to the generality of clause 2.1, the Buyer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Seller for the duration and purposes of these terms & conditions so that Seller may lawfully use, process and transfer the Personal Data in accordance with these terms & conditions on the Buyer's behalf.
- 2.4 Without prejudice to the generality of clause 2.1, Seller shall, in relation to any Personal Data processed in connection with the performance by Seller of its obligations under these terms & conditions:
 - 2.4.1 process that Personal Data only on the written instructions of the Buyer unless Seller is required by the laws of any member of the European Union or by the laws of the European Union applicable to Seller to process Personal Data ("Applicable Laws"). Where Seller is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Seller shall promptly notify the Buyer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Seller from so notifying the Buyer;
 - 2.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by Seller, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
 - 2.4.3 not transfer any Personal Data outside of the EEA unless the following conditions are fulfilled:
 - (a) the Buyer or Seller has provided appropriate safeguards in relation to the transfer;
 - (b) the data subject has enforceable rights and effective legal remedies;
 - (c) Seller complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) Seller complies with reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data;
 - 2.4.4 assist the Buyer, at the Buyer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 2.4.5 notify the Buyer without undue delay on becoming aware of a Personal Data breach;
 - 2.4.6 at the written direction of the Buyer, delete or return Personal Data and copies thereof to the Buyer on termination of the agreement unless required by Applicable Law to store the Personal Data; and 2.4.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 2 and allow for audits by the Buyer or the Buyer's designated auditor.
- 2.5 The Buyer consents to Seller appointing a third-party processor of Personal Data under these terms & conditions. Seller confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 2. As between the Buyer and Seller, Seller shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 2.
- 2.6 Either party may, at any time on not less than 30 days' notice, revise this clause 2 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to these terms & conditions).

3. Scope of Contract

- 3.1 Neither Buyer nor Seller will be bound by any variation or waiver of the Conditions or of the quantity, design, specification, or arrangements for delivery, for any Products specified in any Contract unless and until agreed by both parties in writing.
- 3.2 The Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 3.3 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such a document being referred to in the Contract.
- 3.4 Unless otherwise stated all quotes given by Seller are based on price lists in force on the date of issuance and will expire seven (7) days after the date on which they are given.
- 3.5 Orders may not be transferred to a third party by Buyer.
- 3.6 Seller sells Products and provides the Services as principal only, to the intent and with the effect that no other person or persons shall have any rights or obligations or be entitled or liable to sue or be sued, under the contracts it enters into.
- 3.7 Buyer warrants and agrees that: 1 It is acting in the normal course of its business or trade and is not a consumer; and 2. The Electronic Commerce Directive (00/31/EC) and the Electronic Commerce (EC Directive) Regulations 2002 (SI 2002 No. 2013) do not apply to this Contract. Each individual executing this Contract on behalf of a party represents and warrants that he is empowered to execute it and that all necessary action to authorise its execution has been taken.

4. Delivery

- 4.1 Delivery of the Products will be arranged by Workstation Specialists on or as close as possible to Buyer's requested delivery date subject to Seller's existing priorities and schedules. Buyer will be advised of Seller's estimated time or date for delivery which is an estimate only and may be cancelled or revised at Seller's option. The Products comprised in any Order may be delivered and invoiced in instalments, at Seller's discretion.
- 4.2 Deliveries of Products will be made to the address given on the Order. Any additional costs caused by a change of delivery address will be borne by Buyer.
- 4.3 Seller will have no liability to Buyer in the event of non-delivery of the whole or any portion of the Products or failure to supply all or part of the Services caused directly or indirectly by a Force Majeure Event.
- 4.3.1 A Force Majeure Event shall mean any event or circumstances (or a combination of events or circumstances) beyond the reasonable control of the Seller which could not have been prevented by the Seller acting reasonably.
- 4.3.2 On the happening of a Force Majeure Event the obligations of the Seller shall be suspended for as long as the Force Majeure Event renders performance of the Contract impossible. The Seller shall immediately give the Buyer notice of a happening of a Force Majeure Event and will use its best efforts to resume full performance.
- 4.4 Unless Buyer informs Seller of a discrepancy between the Products ordered and the Products received by Buyer within two (2) working days of the delivery, the delivery will be deemed to have been in accordance with the Order and accepted by the Buyer. This will apply notwithstanding any indication that contents are unchecked upon delivery.
- 4.5 The Services will be provided in accordance with Seller's quotation.
5. Payment and Price
- 5.1 The price stated in Seller's quotation for Products excludes the cost of delivery unless otherwise stated (which will be invoiced to Buyer) and any value added or other tax duty or charge which may be imposed upon the production, storage, sale, transportation, import or export of the Products. Any such tax, duty or charge shall be for the account of Buyer. The price quoted will remain applicable until delivery of the Products provided that this is within six (6) months of the date of the Order.
- 5.2 The price stated in Seller's quotation for the Services excludes value added tax and any other tax which may be imposed on the Services.
- 5.3 Payment of the price of the Products or Services comprised in each Order will be made:
- 5.3.1 By Buyers in the UK not ordering through the Workstation Specialists web site, in pounds sterling;
- 5.3.2 By Buyers outside the UK not ordering through the Workstation Specialists web site, in US dollars or pounds sterling;
- 5.3.3 By Buyers in the UK ordering through the Workstation Specialists web site, in pounds sterling;
- 5.3.4 By Buyers outside the UK ordering through the Workstation Specialists web site, in US dollars, pounds sterling or Euro;
- 5.4 Unless Seller approves Buyer for credit terms, payment shall be made when the Order is placed by cheque, direct credit transfer or credit/debit card (service charge applicable to commercial card payments).
- 5.5 If Seller approves Buyer's credit application, payment shall be due no later than thirty (30) days after the date of Seller's invoice. Seller reserves the right to cancel Buyer's credit terms at any time.
- 5.6 Seller is entitled to interest on any unpaid invoices from the due date until payment at 5% above the base rate of Royal Bank of Scotland.
- 5.7 No discounts will be granted for early payment.
- 5.8 If Buyer does not comply with the payment terms Seller may at its discretion suspend or cancel deliveries of Products and the supply of Services.
- 5.9 The Products are subject to control under the U.S. Export Administration Regulations (15 CFR Part 730 et. seq.) and other applicable U.S. and EU export control laws and regulations. Customer agrees that it will not export, re-export or transfer the Products via any means to any prohibited destination, entity or individual without the required export license(s) or authorization(s) from the U.S. Government or the competent European government.
- 5.10 Any finance price quoted is subject to status (full written details available on request) and provided through the Sellers approved finance partners only.
6. Risk and Cancellation
- 6.1 The risk in the Products will pass to Buyer upon delivery to the carrier.
- 6.2 Buyer shall be entitled to return any unwanted Products (except bespoke built to order systems) to Seller at its cost within thirty (30) days of delivery subject to payment of a restocking charge equivalent to 50 pounds or 15% of the price of the returned Products (whichever is the greater) and to Buyer having obtained a return material authorization number from Seller in advance of any such returns. No returns will be accepted more than thirty (30) days after the date of delivery, nor if they are not in their original packaging.
- 6.3 If Buyer wishes to cancel an order for bespoke Products or Services it shall remain liable for the costs already incurred by Seller, which Seller will use reasonable endeavours to minimise.
7. Title
- 7.1 Subject to clause 7.2, until all monies due from Buyer to Seller on any account have been received by Seller, no title to the products shall pass to Buyer.
- 7.2 Seller retains title to all software and documentation included in the Products, all media on which such software is delivered to Buyer, and to all material supplied or used as part of the Services.
- 7.3 If Buyer fails to make any payment to Seller when it is due, Seller shall be entitled to request that Buyer promptly return to Seller, any Products title of which has not passed to Buyer so as to discharge any sums owed by Buyer to Seller under any Contract. If Buyer fails to promptly return the Products to Seller, Seller will be entitled to enter Buyer's premises to repossess and dispose of any such Products.
8. Warranties and Representations
- 8.1 This clause together with clause 9 specifies the extent to which Seller will be liable for Default. Its principal terms are a financial limit on Seller's liability (except for death or personal injury), the liability of Seller only for certain defined losses and a time limit applicable to both parties for the enforcement of claims. Seller's entire liability and Buyer's sole remedies, whether in contract, tort or otherwise, shall be as set out in this clause and clause 9.
- 8.2 Except as expressly provided in this clause, all conditions, representations and warranties (express or implied, statutory or otherwise) are excluded to the extent permitted by law including without limitation any implied warranties or conditions as to quality fitness for purpose or quality of service.
- 8.3 Subject to the terms of this clause Seller warrants to Buyer that:
- 8.3.1 Hardware Products branded/built by the Seller are free of defects in materials and workmanship that materially affect their performance for a period of three (3) years unless stated otherwise from the date Seller ships the Products to the Buyer ("Delivery Date").
- 8.3.2 Other products from third party manufacturers resold by the Seller are offered with their respective third party manufacturers standard warranty terms and conditions. This is affective from the date Seller ships the Products to the Buyer ("Delivery Date").
- 8.3.3 Software Products are licensed to Buyer under the terms of the appropriate software vendors license. Seller warrants to Buyer that, for a period of ninety (90) days from the Delivery Date, all software Products (when properly installed on Workstation Specialists hardware Products) (a) will perform substantially in accordance with the accompanying written materials and (b) the medium on which the software Product is recorded will be free from defects in materials and workmanship under normal use and service.
- 8.4 Seller agrees to repair or replace (at Seller's option) all Products which fail to conform to the relevant warranty set out in clause 8.3 provided that:
- 8.4.1 Notification of the defect is received by Seller within the warranty period specified above;
- 8.4.2 Allegedly defective Products are returned to Seller with Seller's prior authorisation within thirty (30) days of the defect becoming apparent; and
- 8.4.3 The Products have not been altered, modified or subject to misuse, incorrect installation, maintenance, neglect, accident or damage by excessive current or used with incompatible parts.
- 8.4.4 Replacement Products shall have the benefit of the applicable warranty for the remainder of the applicable warranty period.
- 8.5 If the Seller complies with clause 8.4 it will have no further liability for a breach of the relevant warranty set out in clause 8.3.
- 8.6 Allegedly defective Products returned to Seller in accordance with 8.4.2 will if found by Seller on examination not to be defective be returned to Buyer and a charge made for examination and testing.
- 8.7 The above warranty shall not apply to any software if:
- 8.7.1 The software is not used in accordance with these Conditions or the instructions of Seller or the manufacturer;
- 8.7.2 The software is altered, modified or converted by Buyer or a third party;
- 8.7.3 A program error in the Product results from a malfunction of a third party's or Buyer's equipment or software not supplied by Seller.
- 8.8 Seller does not warrant that any Products will operate in all selected combinations that the operation of any such production will be uninterrupted or error free or that operation of any such Products will meet Buyer's requirements.

8.9 The Services will be performed using reasonable care and skill in a good and workmanlike manner. Except as expressly stated in the preceding sentence, Seller makes no express or implied warranties with respect to the Services, including but not limited to:

8.9.1 Any warranty relating to third-party products; or

8.9.2 Any warranty concerning the results to be obtained from the Services or the results of any recommendation Seller may make, including without limitation any implied warranties concerning the performance, merchantability, suitability, no infringement or fitness for a particular purpose of any of the deliverables or of any system that may result from the implementation of any recommendation Seller may provide.

8.10 In order to receive warranty remedies, deficiencies in the Services must be reported to Seller in writing within ninety (90) days of completion of the Services.

8.11 Seller shall not be liable for any loss incurred after either the date on which Seller corrects any Default or twelve (12) months after the date of the Default to the extent that Seller affords Buyer a reasonable opportunity to mitigate its losses, damage, liabilities or expenses by providing alternative or additional Products.

8.12 Except in respect of payments due under this agreement and claims under clause 9.7 no action may be brought by either party against the other more than one (1) year after the cause of action has accrued.

8.13 On termination of the Contract, howsoever caused, the provisions of this clause 8 will remain in effect.

9. Limitations

9.1 Neither party will be liable for any indirect, punitive, special, incidental, or consequential damages in connection with or arising out of the contact (including, without limitation, loss of business, revenue, profits, goodwill, use, data, electronically transmitted orders, or any other economic advantage), however they arise, whether in breach of contract, breach of warranty or in tort, including negligence, and even if that party has previously been advised of the possibility of such damage. Liability for damages will be limited and excluded, even if any exclusive remedy provided for fails of its essential purpose. Some states and jurisdictions do not allow limitations upon consequential damages, so the above limitation may not apply to you.

9.2 Your sole and exclusive remedy and our entire liability for breach of warranty will be the repair or, at our option and expense, replacement of the defective product, or, if such repair or replacement is not reasonably achievable, the refund of the purchase price. 9.3. All express or implied conditions, representations, and warranties, including any implied warranty or condition of merchantability, satisfaction quality, fitness for particular purpose and no infringement, are hereby excluded to the maximum extent permitted by law. 9.4 Some states and jurisdictions do not allow limitations upon implied warranties, so the above limitation may not apply to all. 9.5 Subject to conditions 9.1 to 9.3 inclusive, nothing in these Conditions shall limit or exclude our liability for: 9.5.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable); 9.5.2 fraud or fraudulent misrepresentation; 9.5.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; 9.5.4 defective products under the Consumer Protection Act 1987; or 9.5.5 any matter in respect of which it would be unlawful for us to exclude or restrict liability.

10. Infringements

10.1 Seller shall settle and/or defend at its own expense and fully pay any resulting awards and settlements including also Buyer's legal fees arising from any claim, demand, suit or action against Buyer or its affiliated companies to the extent such claim, demand, suit or action alleges that the Products or Services as supplied by Seller, or the use of the Products infringes upon any patent or any trademark or copyright or trade secret of any third party ("Infringement"), provided that:

10.1.1 Buyer promptly informs Seller in writing of any such claim, demand, action or suit;

10.1.2 Seller is given control over the defence thereof and Buyer co-operates in the defence at Seller's expense; and

10.1.3 Buyer will not agree to the settlement of any such claim, demand, action or suit prior to a final judgment thereon without the prior written consent of Seller, which consent will not be unreasonably withheld. Buyer shall have the right to select its own counsel to participate in any such defence at Buyer's sole expense.

10.2 The foregoing indemnification shall not apply to any claim of Infringement based on Buyer's modification of Products. Notwithstanding the foregoing, Seller shall have no obligation under this Section for any claims of Infringement by the Products outside the geographical boundaries of the United States, Canada, Mexico, Japan, Australia, Switzerland, Norway or the European Union.

10.3 Seller's total aggregate liability for Infringements according to this Agreement shall not exceed the aggregate of all amounts paid to Seller by Buyer under this Agreement.

11. General

11.1 Seller will not be prejudiced or restricted by any indulgence or forbearance extended to Buyer and no waiver of any breach will operate as a waiver of any subsequent breach.

11.2 Buyer will not assign its rights under the Conditions without the prior written consent of Seller.

11.3 Any notice given under the Conditions will be duly served on Buyer if it is left at or sent by first class post to its address last known to Seller or on Seller if it is left at or sent by first class post to its address last known to Buyer. It will be assumed that any notice sent by post will be delivered on the fifth working day after posting.

11.4 If any provision of these Conditions (or part of any provision) including the limitations and exclusions set out in clauses 8 and 9, is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision will, to the extent required, be deemed not to form part of these Conditions and the validity and enforceability of the other provisions of these Conditions will not be affected.

11.5 This Contract will be construed in accordance with the laws of England and Seller and Buyer submit to the non-exclusive jurisdiction of the English courts.