



**MicroSystem Support**

The Court Annex, The Green  
Stoke Gifford, Bristol, BS34 8PD

## **STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SERVICES**

### **1. Definitions and interpretation**

1.1 In these Conditions the following definitions apply:

<b>“Business Day”</b>	means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;
<b>“Conditions”</b>	means the Supplier’s terms and conditions of sale set out in this document;
<b>“Contract”</b>	means the agreement between the Supplier and the Customer for the sale and purchase of the Deliverables incorporating these Conditions and the Contract Order (as defined in clause 2.6);
<b>“Customer”</b>	means the person who purchases the Deliverables from the Supplier and whose details are set out in the Customer Order and/or Contract Order;
<b>“Customer Order”</b>	means the Customer's order to the Supplier for the Deliverables;
<b>“Deliverables”</b>	means the Goods or Services or both as the case may be;
<b>“Force Majeure”</b>	means an event or sequence of events beyond any party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract;
<b>“Goods”</b>	means the goods and related accessories, spare parts and documents and other physical material set out in the Contract Order and to be supplied by the Supplier to the Customer;
<b>“Location”</b>	means the address(es) for delivery of the Goods and performance of the Services as set out in the Contract Order;
<b>“Price”</b>	has the meaning given in clause 3.1;
<b>“Services”</b>	means the services set out in the Contract Order and to be supplied by the Supplier to the Customer;
<b>“Supplier”</b>	means Microsystem Support Ltd. Registered in England and Wales under company number: 03499750. Registered office is at: The Court Annex, The Green, Stoke Gifford, Bristol BS34 8PD VAT number is: GB870-029-144
<b>“VAT”</b>	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax a

1.2 In these Conditions, unless the context otherwise requires:



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1.2.1 a reference to the Contract includes these Conditions, the Customer's Order and Contract Order;

1.2.2 any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;

1.2.3 a reference to a 'party' means either the Supplier or the Customer and includes that party's personal representatives, successors and permitted assigns;

1.2.4 words in the singular include the plural and vice versa;

1.2.5 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.6 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;

1.2.7 a reference to legislation is a reference to that legislation as in force at the date of the Contract; and

## **2. Application of these Conditions**

2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.

2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract.

2.3 Each Customer Order shall be an offer to purchase the Deliverables subject to these Conditions.

2.4 A Customer Order may be withdrawn or amended by the Customer at any time before acceptance by the Supplier. If the Supplier is unable to accept a Customer Order, it shall notify the Customer promptly.

2.5 The offer constituted by a Customer Order shall remain in effect and capable of being accepted by the Supplier unless withdrawn by the Customer on notice.

2.6 The Supplier may accept or reject a Customer Order at its discretion. We will only accept your Customer Order when we confirm this by a formal order confirmation or an email you to confirm this, the "**Contract Order**". At this point:

2.6.1 a legally binding contract will be in place between you and us; and

2.6.2 we will dispatch the goods to you or start to carry out the services in the way you and we have agreed.



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2.7 Rejection by the Supplier of a Customer Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.

2.8 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Deliverables and are incapable of being accepted by the Customer.

2.9 Marketing and other promotional material relating to the Deliverables are illustrative only and do not form part of the Contract.

### **3. Price**

3.1 The price for the Deliverables shall be as set out in the Contract Order or, in default of such provision, shall be calculated in accordance with the Supplier's scale of charges in force from time to time or as advised by the Supplier to the Customer at the time the Customer Order is made.

3.2 The Prices are exclusive of:

3.2.1 Packaging, delivery and insurance which shall be charged in addition at the Supplier's standard rates, and

3.2.2 VAT.

3.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

3.4 The Supplier may increase the Prices at any time by giving the Customer not less than 15 Business Days' notice in writing.

3.5 Notwithstanding clause 3.4, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Deliverables and which is due to any factor beyond the control of the Supplier.

### **4. Payment**



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4.1 The Supplier shall invoice the Customer for the Deliverables at any time after delivery or performance (as the case may be) of the Deliverables.

4.2 The Customer shall pay all invoices:

4.2.1 in full without deduction or set-off, in cleared funds within 30 of the date of each invoice; and

4.2.2 We accept payment by credit cards, debit cards, cheques, bank transfers and PayPal.

4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

4.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 3% a year above the base rate of Bank of England's from time to time in force, and

4.3.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

## **5. Credit limit**

The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

## **6. Delivery and performance**

6.1 The Goods shall be delivered by the Supplier to the Location on the date(s) specified in the Contract Order. The Goods shall be deemed delivered by the Supplier on completion of unloading of the Goods at the Location.

The Services shall be performed by the Supplier at the Location on the date(s) specified in the Contract Order. The Services shall be deemed delivered by the Supplier only on completion of the performance of the Services at the Location.

6.2 The Supplier may deliver or perform the Deliverables in instalments. Any delay in performance or defect in an instalment shall not entitle the customer to cancel any other instalment.

6.3 Each delivery or performance of the Deliverables shall be accompanied by a delivery note stating:



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- 6.3.1 the date of the Contract Order;
  - 6.3.2 the relevant Customer and Supplier details;
  - 6.3.3 if Goods, the product numbers and type and quantity of Goods in the consignment;
  - 6.3.4 if Services, the category, type and quantity of Services performed;
  - 6.3.5 any special instructions, handling and other requests; and
  - 6.3.6 in the case of Goods, whether any packaging material is to be returned, in which case the Customer shall, after the Goods are unpacked, make them available for collection by the Supplier at the Supplier's expense.
- 6.4 Time is not of the essence in relation to the performance or delivery of the Deliverables. The Supplier shall use its reasonable endeavours to meet estimated dates for delivery and performance, but any such dates are approximate only.
- 6.5 The Supplier shall not be liable for any delay in or failure of performance caused by:
- 6.5.1 the Customer's failure to: (i) make the Location available, (ii) prepare the Location in accordance with the Supplier's instructions or as required for the Deliverables or (iii) provide the Supplier with adequate instructions for performance or delivery or otherwise relating to the Deliverables;
  - 6.5.2 Force Majeure.

## **7. Risk**

Risk in the Goods shall pass to the Customer on Delivery.

## **8. Title**

- 8.1 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 8.2 Until title to the Goods has passed to the Customer, the Customer shall:
  - 8.2.1 hold the Goods as bailee for the Supplier;
  - 8.2.2 store the Goods separately from all other material in the Customer's possession;
  - 8.2.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered;



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8.2.4 insure the Goods from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;

8.2.5 ensure that the Goods are clearly identifiable as belonging to the Supplier;

8.2.6 not remove or alter any mark on or packaging of the Goods;

8.2.7 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clauses 15.1.1 to 15.1.4 or 15.2.1 to 15.2.11; and

8.2.8 on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.

8.3 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clause 15.1.1 to 15.1.4 or 15.2.1 to 15.2.11, the Supplier may:

8.3.1 require the Customer at the Customer's expense to re-deliver the Goods to the Supplier; and

8.3.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

## **9. Warranty**

9.1 The Supplier warrants that, for a period as specified on Quotation and Order (the "**Warranty Period**"), the Goods shall:

9.1.1 conform in all material respects to their Specification;

9.1.2 be free from material defects in design, material and workmanship;

9.1.3 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and

9.1.4 if Services, be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13;

9.1.5 any media on which the results of the Services are supplied shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.

9.2 The Supplier warrants that the Services will be carried out with reasonable care and skill.



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9.3 The Customer warrants that it has provided the Supplier with all relevant, full and accurate information as to the Customer's business and needs.

9.4 The Supplier shall, at its option, correct, repair, remedy the Deliverables that do not comply with clauses 9.1 and/or 9.2, provided that the Customer:

9.4.1 serves a written notice on Supplier not later than 14 Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;

9.4.2 such notice specifies that some or all of the Deliverables do not comply with clause 9.1 and/or 9.2 and identifying in sufficient detail the nature and extent of the defects; and

9.4.3 gives the Supplier a reasonable opportunity to examine the claim of the defective Deliverables.

9.5 The provisions of these Conditions shall apply to any Deliverables that are corrected, repaired, remedied or re-performed with effect from delivery or performance of those Deliverables.

9.6 Except as set out in this clause 9:

9.6.1 the Supplier gives no warranty and makes no representations in relation to the Deliverables; and

9.6.2 shall have no liability for their failure to comply with the warranty in clause 9.1 and/or 9.2,

and all warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 and ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.

9.7 The Supplier will provide a RTB warranty, duration as quoted that the product shall be free from material defects in design, material and workmanship

9.8 The Warranty does not apply to any defect in a product arising from:

9.8.1 Fair wear and tear;



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9.8.2 Cryptocurrency mining;

9.8.3 Wilful damage, abnormal storage or working conditions, accident, negligence by you or by any third party;

9.8.4 Any alteration or repair by you or by a third party who is not one of our authorised repairers;

9.8.5 Any software installed by you or on your behalf; or any file corruption, internet usage or any virus or bug which infiltrates or damages the Product.

9.9 The Warranty described above shall apply to hardware products only and the warranty given in relation to batteries provided as part of your order is **1 year**. Batteries are consumable items and are expected to require replacement over time.

**10. Indemnity and insurance**

10.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.

**11. Limitation of liability**

11.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 11.

11.2 Subject to clauses 11.5 and 11.6, the Supplier's total liability shall not exceed the Price.

11.3 Subject to clauses 11.5 and 11.6, the Supplier shall not be liable for consequential, indirect or special losses.

11.4 Subject to clauses 11.5 and 11.6, the Supplier shall not be liable for any of the following (whether direct or indirect):

11.4.1 loss of profit;

11.4.2 loss of data;

11.4.3 loss of use;

11.4.4 loss of production;

11.4.5 loss of contract;

11.4.6 loss of opportunity;





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11.4.7 loss of savings, discount or rebate (whether actual or anticipated);

11.4.8 harm to reputation or loss of goodwill.

11.5 The limitations of liability set out in clauses 11.2 to 11.4 shall not apply in respect of any indemnities given by either party under the Contract.

11.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

11.6.1 death or personal injury caused by negligence;

11.6.2 fraud or fraudulent misrepresentation;

11.6.3 any other losses which cannot be excluded or limited by applicable law;

11.6.4 any losses caused by wilful misconduct.

## **12. Force Majeure**

12.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:

12.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and

12.1.2 uses best endeavours to minimise the effects of that event.

12.2 If, due to Force Majeure, a party:

12.2.1 is or shall be unable to perform a material obligation; or

12.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days;

## **13. Termination**

13.1 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if:

13.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;

13.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;

13.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 30 days after the Supplier has given notification that the payment is overdue; or



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13.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.

13.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:

13.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

13.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;

13.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

13.2.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

13.2.5 has a resolution passed for its winding up;

13.2.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;

13.2.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 7 days of that procedure being commenced;

13.2.8 has a freezing order made against it;

13.2.9 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;

13.2.10 is subject to any events or circumstances analogous to those in clauses 13.2.1 to 13.2.9 in any jurisdiction;

13.3 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

## **14. Dispute resolution**

14.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 14.



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14.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

14.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:

14.3.1 Within 7 days of service of the notice, the contract managers of the parties shall meet to discuss the dispute and attempt to resolve it.

14.3.2 If the dispute has not been resolved within 7 days of the first meeting of the contract managers, then the matter shall be referred to the chief executives (or persons of equivalent seniority) who shall meet within 7 days to discuss the dispute and attempt to resolve it.

14.4 The specific format for the resolution of the dispute under clause 14.3.1 and, if necessary, clause 14.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.

14.5 If the dispute has not been resolved within 14 days of the first meeting of the chief executives (or equivalent) under clause 14.3.2 then the matter shall be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.

**15. Notices**

15.1 Any notice or other communication given by a party under these Conditions shall:

15.1.1 be in writing and in English;

15.1.2 be signed by, or on behalf of, the party giving it; and

15.1.3 be sent to the relevant party at the address set out in the Contract

15.2 Notices may be given, and are deemed received:

15.2.1 by hand: on receipt of a signature at the time of delivery;

15.2.2 by post: at 9.00 am on the second Business Day after posting;

15.2.3 by fax: on receipt of a transmission report from the correct number confirming uninterrupted and error-free transmission; and

15.2.4 by email: on receipt of a read receipt email from the correct address.

15.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 15.1.

15.4 All references to time are to the local time at the place of deemed receipt.

15.5 This clause does not apply to notices given in legal proceedings or arbitration.



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## **16. Time**

Unless stated otherwise, time is of the essence for any date or period specified in the Contract in relation to the Customer's obligations only.

## **17. Further assurance**

The Customer shall at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

## **18. Entire agreement**

18.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

18.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

18.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

## **19. Variation**

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the Supplier.

## **20. Severance**

20.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

20.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.



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## **21. Waiver**

21.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

21.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

## **22. Compliance with law**

The Customer shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

## **23. Conflicts within contract**

If there is a conflict between the terms contained in the Conditions and the terms of the Contract Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail.

## **24. Governing law**

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

## **25. Jurisdiction**

The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).