



ADELIX LTD
TERMS AND CONDITIONS OF SALE OF GOODS AND SERVICES

1. Application

These Terms and Conditions apply to the provision of Information Technology Services and the supply of Goods by Adelix Ltd ("Supplier") to The Customer. These Terms and Conditions will form the basis of Terms and Conditions of any contract between The Supplier and The Customer to the exclusion of any terms or conditions which may be implied or which may appear on any order or communication from The Customer. The Customer acknowledges that any use it might make of stationary bearing such terms or conditions, other than these Terms referred to herein, shall be purely for its administrative convenience and that such use shall not evidence an intention that such terms or conditions should be incorporated in any contract between The Customer and The Supplier.

2. Software and Network Access

Where the service provided includes use of computer software and/or access to network systems, The Customer acknowledges that such use and access is governed by The Supplier's and the Access Provider's licence terms for such use and access. These Terms shall also apply to such services except to the extent that they are inconsistent with the relevant licence terms. Unless otherwise agreed in writing between The Supplier and The Customer, use of the provided computer software and access to the network system is restricted to The Customer.

The Customer shall not use any services provided under the contract for any illegal activity and its use of such services shall comply with the Copyright Act, the Data Protection Act, the Computer Misuse Act and any other Act or regulation applicable to such use.

3. Delivery, Title and Risk

Delivery dates represent The Supplier's best estimate and are not guaranteed. The Supplier shall have the right to change the delivery date if The Customer requests any change to the contract details or if The Customer fails to deliver by the due date(s) all the materials, data and information (if any) notified by The Supplier to The Customer as being required. The Supplier's failure to meet a delivery date shall not constitute a breach of contract.

Risk of loss or damage (including any corruption of data or programs) shall pass to The Customer when the goods or results of the services are, in the case of physical delivery, delivered by The Supplier to the carrier or, in the case of electronic delivery, are input by The Supplier to the electronic delivery system. Where Supplier has control over the carrier of goods, The Supplier shall obtain approval from The Customer for choice of carrier, prior to delivery.

Title to hardware and other tangible and intangible items ("goods") shall not pass to The Customer until The Supplier has been paid in full. Until such payment, Customer shall hold the tangible goods as bailee for The Supplier and keep them secure and insured at full replacement value. The Supplier may repossess any goods for which payment is overdue and, for this purpose, its employees and agents may enter any premises where the goods are situated.

All rights whatsoever (including copyright, database rights and any other rights, whether recognised by present law or only by future law) throughout the world ("Rights") in program code and data, including text, tabulations and graphical images, provided by The Customer to The Supplier under the contract shall remain with The Customer or its licensor.

The Rights in any program code and data, including text, tabulations and graphical images, provided or made available to Customer under the contract shall remain with Supplier, or its Third Party Licensor, unless otherwise agreed in writing by Supplier.

The Customer's right to use and copy any program code or data in which the Rights remain with The Supplier, or its Third Party Licensor, shall be governed by the applicable licence terms of The Supplier or the Third Party. If The Supplier has not received all payment in respect of such code and data by forty-five (45) days from its due date, The Customer's right to use and copy shall cease forthwith.

4. Acceptance of Products

Upon final completion of the Services, Customer shall have ten (10) days in which to notify The Supplier of any problems with the Services supplied under this Work Order. If The Supplier is not notified of any problems within this time period, the Services performed shall be deemed accepted.

If the Goods or Services provided to The Customer under the contract do not conform to the agreed specification and such non-conformity is reported to The Supplier in writing within fourteen (14) days of provision, The Supplier will endeavour to correct any such non-conformity. In the absence of such a report within the said 14 days, the Goods and Services provided shall be deemed to be conforming and accepted by The Customer. Unless The Customer purchases separate support services from The Supplier, The Supplier shall have no further liability to correct defects or make other alterations to the Goods or Services provided. Ongoing support services shall be subject to such additional terms as The Supplier may reasonably specify.

5. Service Offering

The Customer agrees that The Supplier shall not be liable for any direct, indirect or consequential losses occurring as a result of The Suppliers failure to meet relevant response times.

6. Exceptions

The Services do not include the correction or avoidance of software defects or errors or the loading or re-loading of The Customer's applications software or data or any configuration of the Maintained Products.

7. Customer Obligation and Indemnity

The Customer shall indemnify and keep indemnified The Supplier against any and all claims, costs and expenses relating to infringement of Rights in respect of program code and data provided to The Supplier by The Customer and in respect of work done by The Supplier in accordance with specific instructions of The Customer. Subject to the aforesaid, The Supplier shall indemnify and keep indemnified The Customer against any and all claims, costs and expenses relating to infringement of Rights in respect of program code and data provided or made available to The Customer by The Supplier under the contract.

Neither party's liability under Clause 7a) shall exceed the contract price.

The Customer shall indemnify and keep indemnified The Supplier against any and all claims, costs and expenses relating to (i) any assertion by a Third Party that any data or information provided to The Supplier by The Customer is libellous or defamatory and (ii) any failure by The Customer to comply with the provisions of Clause 2b) above.

The Customer shall properly use the maintained Products and shall provide The Supplier with all reasonable facilities and information to enable The Supplier to perform its duties.

The Customer shall be responsible for complying with all applicable regulatory requirements that apply to The Customer.

8. Price and Payment

The contract price shall be the price quoted in The Supplier's offer. Prices are subject to adjustment by The Supplier at any time before delivery to reflect any increase in the cost to The Supplier due to any factor which is beyond its control such as, without limitation, changes in quantities, specifications or usage conditions requested by The Customer, or significant increase in the cost to The Supplier of Goods or Services to be supplied by Third Parties, or failure of The Customer in the provision of timely, complete and accurate information, data or instructions.

The price shall be based on payment in full, in stages, or shall be a periodic charge, as specified in The Supplier's offer.

VAT and any other taxes or duties applicable shall be added to the invoice and paid by The Customer.

Unless otherwise agreed, the cost of carriage of goods from The Supplier's or Third Party's premises shall be payable by The Customer.

For ongoing services (such as Support or Network Access), The Supplier shall have the right, on or after the first nine months of provision of such services, to change the periodic charge by giving three month's notice in writing to The Customer effective on or after the first anniversary of the contract date.

The Supplier's offer is valid, unless previously withdrawn, only for 30 days from the date of quotation. The Supplier reserves the right not to accept any order. Oral quotations are valid only to the end of the business day upon which they are given.

If payment terms are not otherwise specified in writing by Supplier, payment shall be made net cash within **14 days** from the invoice date without regard to whether Customer has examined the Services provided or the Goods supplied. The Supplier reserves the right at any time to require full or partial payment in advance or to revoke any credit previously extended if, in The Supplier's judgement, The Customer's financial condition or payment record does not warrant proceeding on the terms specified.

In the event of payment default The Supplier has the right to retain any tangible assets paid for by The Customer, that remain in The Suppliers possession until such time as payment is received in full. In the event of non-payment The Supplier has the right to sell or retain possession of any such assets in order to recoup their losses.

If The Customer defaults in paying any sum due, or is in breach of any of these Terms, or has a receiver or administrator appointed or goes into liquidation, The Supplier has the right to suspend or terminate the provision of Services and the supply of Goods, with or without notice, and without prejudice to any other rights of The Supplier under the contract. On such suspension or termination, The Customer shall immediately become due to pay on a time and materials basis for work done and services provided by The Supplier up to suspension or termination.

Time for payment is of an essence. The Supplier reserves the right to charge interest on sums more than 7 days overdue on a day to day basis, as well after as before any judgement, from the date or last date for payment thereof to the date of actual payment (both days inclusive) at 3% above the base rate from time to time of Lloyds TSB Plc. Such interest shall be paid on demand.

9. Warranty

The Supplier warrants intangible goods supplied under the contract against faulty workmanship and defective materials for 30 days from the date of delivery and will repair or replace goods accepted by The Supplier as being defective provided that the goods have not been damaged, modified, repaired or subject to abnormal conditions of use or storage and have been returned to The Supplier, carriage paid, within the said 30 days.

In respect of Third Party Products, the Customer shall only be entitled to the benefit of any warranty or guarantee given by the Third Party manufacturer.

10. Liability

Supplier shall not be liable for loss, damage or injury, direct or indirect foreseeable or otherwise including loss of profits, goodwill, or other special, incidental, consequential or punitive damages even if the supplier has been advised of the possibility of the same, whether caused by the negligence of the supplier or otherwise.

Nothing in Clause 9 shall restrict The Supplier's liability for fraud or for death or personal injury caused by negligence.

Subject to the above, The Supplier's entire liability and The Customer's sole remedy shall in any event be limited to the contract price.

11. Termination

Without prejudice to any other right to which it may be entitled, The Supplier may give notice in writing to The Customer terminating a contract with immediate effect if Customer is in material breach of any of its obligations thereunder and fails to remedy such breach (if remediable) within thirty (30) days of notice in writing requiring such remedy.

The contract shall terminate forthwith if The Customer makes any composition with its creditors or has an administrative receiver appointed of any of its assets or if an order is made or a resolution is passed for the winding-up of The Customer or an order is made for the appointment of an administrator or, being a natural person or partnership, becomes insolvent or enters into any arrangement with his creditors or has a bankruptcy petition presented against him.

In the event that The Customer believes services by The Supplier to be faulty or of unsatisfactory standard, The Customer may terminate the contract, by providing 14 days' notice in writing. On such termination, The Customer shall immediately become due to pay on a time and materials basis for work done and services provided by The Supplier up to termination and including the 14-day notice period.

In the event of termination of a contract howsoever occasioned, (i) The Supplier shall forthwith cease provision of services, and (ii) The Customer will, if requested by The Supplier, return or destroy all copies in whole or in part of any documents, data and software which Supplier has provided under the contract and within seven (7) days of receiving such a request shall certify in writing to The Supplier that such return or destruction has been completed, and (iii) any licence or rights granted to The Customer under the contract in respect of software or otherwise shall cease.

Neither party shall be relieved or discharged from any obligation which accrued prior to such termination and termination shall not prejudice the effect of any of the provisions of the contract that expressly or by implication come into or continue in effect on or following termination.

12. Confidentiality

Each party shall keep confidential and not disclose to any Third Party information of the other which is marked confidential or by its nature is evidently confidential and is disclosed by the other party in connection with a contract under these Terms. Such obligations shall not apply to information (i) which is or comes into the public domain other than as a result of a breach of this term or (ii) which lawfully comes into the party's possession free of restriction or (iii) which is independently developed by the party.

13. Communications

If the contract requires significant technical or commercial communication between the parties, each shall nominate one person through whom such communication shall be channelled.

14. Entire Agreement

The agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof.

The Customer warrants to The Supplier that it has not been induced to enter into the Agreement by any prior oral representation (whether innocently or negligently made) except as specifically contained in the Agreement.

15. Representation

The Customer acknowledges that in entering into the contract The Customer has not relied on any documentation, statement or representation given or made by or on behalf of The Supplier other than The Supplier's documentation specifically identified as applying to the contract.

16. Force Majeure

Neither party shall be in breach of its obligations under the contract or under any liability for any delay, loss or damage due to any cause beyond its reasonable control, including but not limited to acts of nature, Government intervention, strikes and lockouts, delays or failures by The Suppliers and failures of network or electronic communication systems.

17. Assignment

Neither party may assign the contract or any rights or claims thereunder without the prior written consent of the other party.

18. Waiver

Failure by either party to exercise or enforce any rights under the contract shall not be or be deemed to be a waiver of any such right nor prevent enforcement thereof thereafter.

19. Severance

The invalidity or unenforceability of any provision of These Terms shall not affect the other provisions which shall be construed in all respects as if such invalid or unenforceable provision had been omitted.

20. Notices

Any notice to be given under the contract shall be given by personal delivery, post or facsimile transmission to the address of the relevant party as set out in the contract or to such other address as a party may have notified the other in accordance herewith. Notice by facsimile transmission shall be confirmed by post. Notice shall be deemed to have been given when personally delivered, or on the second business day after posting, or on the next business day after facsimile transmission.

21. Law and Jurisdiction

The contract shall be governed and construed in accordance with the laws of England and the parties shall submit to the jurisdiction of the English courts.