

Alpha Data Parallel Systems Ltd.

**Terms and Conditions of Sale
(Offline Business-to-Business)**

1 Introduction

- 1.1 These terms and conditions shall govern the offline sale and purchase of Products (as defined below) where we sell to a business customer over the phone, by e-mail or by any other means.
- 1.2 You will be asked to give your express agreement to these terms and conditions before you place an Order with us.
- 1.3 When you place an Order with us you warrant that you are not a consumer within the meaning of the Consumer Rights Act 2015. If you are a consumer, you may order Products via our webstore (<https://ukstore.alpha-data.com/>) only.

2 Interpretation and construction

2.1 In these terms and conditions:

- (a) "Bespoke Software" means any Software which is created and developed by us exclusively for your requirements under the Contract;
- (b) "Contract" means the contract between you and us for the sale and purchase of Products in accordance with these terms and conditions;
- (c) "COTS Product" means a Commercial-Off-The-Shelf product sold by us which is based on a standard Specification and Software created by us and contains no modifications by us and / or you;
- (d) "Force Majeure Event" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities (including but not limited to delays at customs), national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- (e) "Intellectual Property Rights" means all current and future copyright, patents, the Software, trade marks, rights in databases, inventions, trade secrets, know-how, rights in designs, topographies, trade and business names, domain names, marks and devices (whether or not registered) and all other intellectual property rights and applications for any of those rights (where such applications can be made) capable of protection in any relevant country of the world;
- (f) "Modified COTS Product" means either i) a Commercial-Off-The-Shelf product sold by us which is based on a standard Specification created by us and which contains modifications (including Bespoke Software) in accordance with a separate Specification agreed by us; or ii) any other custom made product sold by us which is not a COTS Product or which includes Bespoke Software;
- (g) "Object Code" means machine-readable computer instructions that can be executed by a computer;

- (h) "Order" means your order for Products as set out in the order form and accepted by us;
- (i) "party" means us and / or you, depending on the context and "parties" shall be construed accordingly;
- (j) "Products" means the COTS Products and / or Modified COTS Products (or any part of them including the Software and Bespoke Software) as set out in the Order;
- (k) "Software" means the software, the tools and language provided by us under a Contract together with all Intellectual Property Rights in the same;
- (l) "Software Documentation" means the documentation in respect of the Software and / or Bespoke Software provided by us to you under the Contract;
- (m) "Source Code" means the human-readable code from which a computer can compile or assemble the Object Code of a computer program, together with a description of the procedure for generating the Object Code;
- (n) "Specification" means any written specification for the Products, Software or Bespoke Software including any related plans and drawings that are agreed between us and you;
- (o) "we" means Alpha Data Parallel Systems Ltd, a company incorporated in Scotland under the Companies Acts (Company Number SC147524) and having our registered office at 4 West Silvermills Lane, Edinburgh, EH3 5BD, Scotland; and "us" and "our" shall be construed accordingly; and
- (p) "you" means our customer or prospective customer and "your" shall be construed accordingly;

2.2 The following rules of construction shall apply to these terms and conditions:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assignees.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to writing or written includes faxes and e-mails.

3 Our details

You can contact us by writing to the business address given at clause 2.1(o)above, by email to sales@alpha-data.com or by telephone on +44 131 558 2600.

4 Basis of contract

- 4.1 These terms and conditions apply to the Contract to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. By placing an Order you indicate that you agree to be bound by these terms and conditions.

- 4.2 Your Order constitutes an offer to purchase the Products in accordance with these terms and conditions. You are responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 4.3 The Order shall only be deemed to be accepted when we issue an acceptance of the Order, at which point the Contract shall come into existence.
- 4.4 Any samples, drawings, descriptive matter, or advertising produced by us and any descriptions or illustrations contained in our catalogues, brochures or website are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract or have any contractual force unless expressly provided in these terms and conditions.
- 4.5 A quotation for the Products given by us shall not constitute an offer. A quotation shall only be valid until the expiry date shown on the quotation unless we at our sole discretion agree to extend the validity of any quotation in writing.

5 Products

- 5.1 COTS Products are described on our website at www.alpha-data.com.
- 5.2 The Modified COTS Products are custom-made products which include modifications which are in accordance with an agreed Specification.
- 5.3 Where the Modified COTS Products are to be manufactured in accordance with a Specification (or part of a Specification) supplied by you:
- (a) you hereby grant us a non-exclusive royalty-free licence to use and reproduce all the Intellectual Property Rights contained in such Specification for the purposes of performing and fulfilling our obligations under the terms of the Contract and the manufacture and delivery of the Products; and
 - (b) you shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by us in connection with any claim made against us for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with our use of the Specification.
- 5.4 We reserve the right to amend the Specification without prior notice in the following circumstances:
- (a) where such amendment is required by any applicable statutory or regulatory requirements; or
 - (b) where at our sole discretion we choose to substitute faster speed grade and/or higher rated parts, provided the Product will substantially conform to the form, fit, and function as provided in the Specification.
- 5.5 The solder and component finishes shall be lead-free in all COTS Products. We will use lead based solder and component finishes only where you order a Modified COTS Product and this is specified in the Specification as agreed by us.
- 5.6 You acknowledge that COTS Products are manufactured on the basis of our pre-existing Specification only and do not anticipate specific requirements you may have.

6 Prices

- 6.1 We provide details of our prices upon request.

- 6.2 The price of the Products is exclusive of the costs and charges of packaging, insurance and transport, which shall be invoiced to you.
- 6.3 The price of the Products is exclusive of amounts in respect of value added tax (VAT). You shall, on receipt of a valid VAT invoice, pay us such additional amounts in respect of VAT as are chargeable on the supply of the Products.
- 6.4 We may, by giving you notice at any time up to thirty (30) days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
- (a) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); or
 - (b) any request by you to change the delivery date(s); or
 - (c) any delay caused by any instructions provided by you or your failure to provide us with adequate or accurate information or instructions.
- 6.5 In respect of COTS Products only, you may cancel your Order or amend your Order by changing the quantities or the types of COTS Products ordered but in each case subject to the following conditions:
- (a) you pay us 30% of the price of the relevant COTS Product(s) to be so cancelled or amended; and
 - (b) you notify us in writing no less than 29 days before the acknowledged shipment date as shown in the Order acknowledgement we sent you. Notifications received by us less than 29 days before the acknowledged shipment date will not be considered; and
 - (c) where the price of the Order is increased as a result of any change to your Order, you pay us any difference within 7 days of your notification; and
 - (d) where you seek to amend your Order by changing the quantities or the types of COTS Products ordered, any such amendment will not be valid unless we have accepted the amendment in writing.
- 6.6 You may not cancel your Order in any other circumstances other than where expressly outlined at clause 6.5 above and Orders for Modified COTS Products may not be cancelled at any time.
- 6.7 Our quotes are based on the number of Products to be provided. Any cancellations that result in fewer Products shipped than the number of units in your purchase Order may result in a bill-back for the difference in price due to a lesser quantity discount applicable to the number of Products delivered.

7 Payments

- 7.1 **Upfront payment:** Where the Product you have ordered is in stock and we have accepted your Order, you must pay the prices of the Products in full and cleared funds upon our acceptance of your Order. Where the Product you have ordered is not in stock at the time of your Order and we have accepted your Order, we will send you an invoice when the Product is ready and dispatch the Product when we have received payment in full and cleared funds.
- 7.2 **Business account:** If we agree to open a business account for you, you will be able to pay in arrears, but the following provisions shall apply:
- (a) We may invoice you for the Products on or at any time after the completion of the delivery;
 - (b) You shall pay the invoice in full and in cleared funds within thirty (30) days following the date of our invoice;

- (c) Business accounts will be subject to such credit limits as we may notify from time to time; and
- (d) Where we extend credit to you for the Products in accordance with this clause 7.2 we may pass any relevant personal information including the personal information of any directors, partners or members to credit reference agencies and they may keep a record of any search that they do.

7.3 Payment shall be made to the bank account we have nominated in writing.

7.4 Time of payment is of the essence.

7.5 If you fail to pay to us any amount in accordance with the provisions of these terms and conditions, then we may withhold the Products ordered and/or by written notice to you at any time terminate the contract of sale for the Products.

7.6 If you fail to make any payment due to us under the Contract by the due date for payment, then:

- (a) you shall pay interest on the overdue amount at the rate of 8% per annum above Royal Bank of Scotland's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount; and / or
- (b) we may claim interest and statutory compensation from you pursuant to the Late Payment of Commercial Debts (Interest) Act 1998

without prejudice to our other legal rights or rights under these terms and conditions.

7.7 If you make an unjustified credit card, debit card or other charge-back then you will be liable to pay us, within 7 days following the date of our written request:

- (a) an amount equal to the amount of the charge-back;
- (b) all third party expenses incurred by us in relation to the charge-back (including charges made by our or your bank or payment processor or card issuer);
- (c) an administration fee of USD 50.00;
- (d) all our reasonable costs, losses and expenses incurred in recovering the amounts referred to in this clause 7.7 (including without limitation legal fees and debt collection fees); and
- (e) interest in accordance with clause 7.6.

7.8 You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies we may have, set off any amount owing to us by you against any amount payable by us to you.

8 Deliveries

8.1 We will only deliver to countries listed from time to time on our website www.alpha-data.com/countrylist. We reserve the right to amend this list at any time and refuse to fulfill orders to addresses located in countries not included on that list.

8.2 Always subject to 8.1 above, we will arrange for the Products you purchase to be delivered to the delivery address agreed with us. Subject to clause 8.6, the delivery is completed when the Products are left at the agreed address you have specified in your Order.

- 8.3 We will use reasonable endeavours to deliver the Products on or before the date for delivery set out in the Order confirmation or any other documentation however, we do not guarantee delivery by this date.
- 8.4 The time of delivery is not of the essence to the Contract. We shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 8.5 If we fail to deliver the Products, our liability shall be limited to the costs and expenses incurred by you in obtaining replacement products of similar description and quality in the cheapest market available, less the price of the Products. We shall have no liability for any failure to deliver the Products to the extent that such failure is caused by a Force Majeure Event or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 8.6 If the Products are returned to us as undelivered, then, except where such failed delivery is caused by a Force Majeure Event or our failure to comply with our obligations under the Contract:
- (a) delivery of the Products shall be deemed to have been completed at 9.00 am on the fifth day after the day on which we dispatched the Products to you; and
 - (b) we shall store the Products and charge you for all related costs and expenses (including insurance); and
 - (c) we shall be entitled to resell or otherwise dispose of part or all of the Products and charge you for any shortfall below the price of the Products.
- 8.7 We shall ensure that each delivery of the Products is accompanied by a delivery note which shows our order number, the invoice date, customer order number, the type and quantity and serial number(s) of the Products and, if the Order is being delivered by instalments, the outstanding balance of Products remaining to be delivered.
- 8.8 We may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.

9 Risk and ownership

- 9.1 The Products you purchase from us will be at your risk from the completion of delivery.
- 9.2 Ownership of a product that you purchase from us will pass to you upon the later of:
- (a) delivery of the Product; and
 - (b) receipt by us in cleared funds of all amounts due in respect of the Contract (including delivery charges).
- 9.3 Until title to the Product has passed to you:
- (a) you must store the product separately from other goods;
 - (b) you must ensure that the product is clearly identifiable as belonging to us;
 - (c) you must maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) you must notify us immediately where you become subject to the events listed at clause 14.1(a) to (j) inclusive;

- (e) you must give us such information relating to the Products from time to time as we may reasonably require.

9.4 Subject to clause 9.5, you may resell or use the Products in the ordinary course of your business (but not otherwise) before we receive payment. However, if you resell the Products (whether or not these have been incorporated into other goods) before that time:

- (a) you do so as principal and not as our agent; and
- (b) title to the Products shall pass from us to you immediately before the time at which the resale occurs.

9.5 If before title to the Products passes to you, you become subject to any of the events listed in clause 14.1, then, without limiting any other right or remedy we may have:

- (a) your right to resell the Products or use them in the ordinary course of business ceases immediately; and
- (b) we may at any time:
 - (i) require you to deliver up all Products in your possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if you fail to do so promptly, enter any of your premises or the premises of any third party where the Products are stored in order to recover them.

10 Warranties and representations

10.1 You warrant and represent to us that:

- (a) you are legally capable of entering into binding contracts;
- (b) you have full authority, power and capacity to agree to these terms and conditions;
- (c) all the information that you provide to us in connection with your Order is true, accurate, complete and non-misleading; and
- (d) you will be able to take delivery of the Products in accordance with these terms and conditions at the address specified in the Order or otherwise agreed with us.

10.2 We warrant to you that on delivery and for a period which is the shorter of i) 12 months from the date of the invoice for the relevant Products or ii) the time between delivery and when the Products are irreversibly incorporated into other goods, that

- (a) we have the right to sell the Products that you buy;
- (b) the Products you buy will in all material respects correspond to any Specification published on our website and to any agreed Specification for the purposes of Modified COTS Products; and
- (c) always subject to clauses 11.3, 11.5 and 11.6 below, the Products are free from material defects in design, material and workmanship

10.3 All of our warranties and representations relating to the supply of Products are set out in these terms and conditions. To the maximum extent permitted by applicable law and subject to clause 12.1, all other warranties and representations are expressly excluded.

11 Breach of product warranty

11.1 If you believe that Products you have purchased from us breach any of the warranties set out in clause 10.2, then:

- (a) you need to give us notice in writing no later than 14 days from the completion of the delivery that some / all of the Products do not comply with the warranty; and
- (b) you need to return the Products (at your sole cost) to our place of business outlined at clause 2.1(o) of these terms and conditions

we shall at our sole option repair or replace the Products that do not comply with the warranty or refund the price of the defective Products in full.

11.2 If you believe that Products you have purchased from us breach any of the warranties set out in clause 10.2 and such breach of warranty is caused by a latent defect which could not have been identified on inspection by a suitably qualified person at the time of delivery, then

- (a) you need to give us notice in writing no later than 14 days from the time that you discover such latent defect; and
- (b) you need to return the Products (at your sole cost) to our place of business outlined at clause 2.1(o) of these terms and conditions

we shall at our sole option repair or replace the Products that do not comply with the warranty or refund the price of the defective Products in full.

11.3 We shall not be liable for Products' failure to comply with the warranty set out in clause 10.2 in any of the following events:

- (a) you make any further use of such Products after giving notice in accordance with clause 11.1(a) or 11.2(a);
- (b) the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products and good trade practice regarding the same;
- (c) the defect arises as a result of us following any drawing, design or Specification supplied by you;
- (d) you alter or repair the Products without our written consent;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Products differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

11.4 If you return a Product in contravention of these terms and conditions, and you do not have any other legal right to a refund, repair or replacement in respect of that Product:

- (a) we will not refund, repair or replace the Product;
- (b) we may retain the returned Product until you pay to us such additional amount as we may charge for re-delivery of the returned Product; and
- (c) if we do not receive payment of such additional amount within 14 days of issuing a request for payment, we may sell or otherwise dispose of the returned product in our sole discretion without any liability to you.

- 11.5 Except as provided in this clause 11, we shall have no liability to you in respect of the Products' failure to comply with the warranty set out in clause 10.2.
- 11.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.7 These terms and conditions shall apply to any repaired or replacement Products supplied by us.

12 Limitations and exclusions of liability

- 12.1 Nothing in these terms and conditions will:
- (a) limit or exclude any liability for death or personal injury resulting from negligence; or
 - (b) limit or exclude any liability for fraud or fraudulent misrepresentation; or
 - (c) limit any liabilities in any way that is not permitted under applicable law; or
 - (d) exclude any liabilities that may not be excluded under applicable law.
- 12.2 limitations and exclusions of liability set out in this clause 12 and elsewhere in these terms and conditions:
- (a) are subject to clause 12.1; and
 - (b) govern all liabilities arising under these terms and conditions or relating to the subject matter of these terms and conditions, including liabilities arising in contract, in delict (including negligence) and for breach of statutory duty.
- 12.3 We will not be liable to you in respect of any losses arising out of any Force Majeure Event.
- 12.4 We will not be liable to you (whether in contract, delict, for breach of statutory duty or otherwise) in respect of any business losses, including (without limitation) loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.
- 12.5 We will not be liable to you in respect of any loss or corruption of any data, database or software.
- 12.6 We will not be liable to you in respect of any special, remote, indirect or consequential loss or damage.
- 12.7 You accept that we have an interest in limiting the personal liability of our officers and employees and, having regard to that interest, you acknowledge that we are a limited liability entity; you agree that you will not bring any claim personally against our officers or employees in respect of any losses you suffer in connection with these terms and conditions (this will not, of course, limit or exclude the liability of the limited liability entity itself for the acts and omissions of our officers and employees).
- 12.8 Our aggregate liability to you in respect of any Contract to purchase Products from us under these terms and conditions shall not exceed the total amount paid and payable to us under the Contract.

13 Software

- 13.1 Title to and any and all Intellectual Property Rights in (i) the Software and Bespoke Software contained in the Products, (ii) the Software Documentation and the (iii) Source Code are and shall remain our exclusive property (or, where applicable, the third party from whom our right to use the Intellectual Property Rights has derived).

- 13.2 Subject to your paying all applicable fees and charges under this Contract and your compliance with these terms and conditions, we hereby grant you (or shall procure the grant of) a non-exclusive non-transferrable fully revocable licence to use the Software and / or Bespoke Software contained in the Products and the Software Documentation solely for the purpose of you making use of the Products in the usual course of business.
- 13.3 Where only Object Code and no Source Code has been made available to you, you have no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software and/or Bespoke Software in whole or in part except to the extent that any reduction of the Software and/or Bespoke Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software and/or Bespoke Software with the operation of other software or systems used by you, unless we are prepared to carry out such action at a reasonable commercial fee or have provided the information necessary to achieve such integration within a reasonable period, and you shall request us to carry out such action or to provide such information (and shall meet our reasonable costs in providing that information) before undertaking any such reduction.
- 13.4 Where we grant you a licence to use the Source Code such licence shall be non-exclusive, non-transferable fully revocable licence to use the Source Code for the purpose of using it as an example to support and maintain the Software solely for your internal benefit but always subject to the following conditions:
- (a) you will not modify the Source Code (or any part thereof) in any way except to the extent necessary to support and maintain the Software in accordance with clause 13; and
 - (b) you shall treat as confidential all information contained or embodied in the Source Code and shall not disclose the whole or any part of such information to any third party without our prior written consent. You shall ensure that your employees comply with the provisions of this clause. This sub-clause 13.4(b) shall survive the termination of the Contract.
- 13.5 You shall have no rights in or to (i) the Software or Bespoke Software, (ii) the Software Documentation or (iii) the Source Code other than the right to use them in accordance with the terms of the licence as set out in clauses 13.2 and 13.4.

14 Termination and suspension

- 14.1 We may terminate the Contract under these terms and conditions immediately, by giving you written notice of termination, if:
- (a) you suspend, or threaten to suspend, payment of your debts, or are unable to pay your debts as they fall due or admit inability to pay your debts, or (being a company or limited liability partnership) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986, or (being a partnership) have any partner to whom any of the foregoing apply;
 - (b) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with creditors other than where these events take place for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or solvent reconstruction;
 - (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up, other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or solvent reconstruction;
 - (d) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you;

- (e) the holder of a qualifying floating charge over your assets has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
- (g) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
- (h) you are, or are likely to be, prosecuted under the UK Bribery Act 2010;
- (i) any event occurs, or proceeding is taken, or is about to be taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clauses 14.1(a) to (h) (inclusive);
- (j) you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business;
- (k) your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy;
- (l) you fail to pay, on time and in full, any amount due to us under the Contract; or
- (m) you commit any breach of the terms of the Contract.

14.2 We may terminate the Contract under these terms and conditions by written notice to you if we are prevented from fulfilling the Contract by a Force Majeure Event.

15 Consequences of termination

15.1 If the Contract under these terms and conditions is terminated in accordance with clause 14:

- (a) we will cease to have any obligation to deliver Products which are undelivered at the date of termination;
- (b) termination of the Contract, however arising, shall not affect any of either party's rights remedies obligations and liabilities that have accrued as at termination;
- (c) you will continue to have an obligation to pay for Products which have been delivered on or before the date of termination (without prejudice to any right we may have to recover the Products) including interest; and
- (d) all the other provisions of these terms and conditions will cease to have effect, except that clauses 2 (Interpretation and Construction), 5.3 (Products), 7.2, 7.6, 7.7 (Payments), 9 (Risk and Ownership), 12 (Limitations and exclusions of liability), 13.4(b) (Software), 15 (Consequences of Termination), 18 (Assignment), 19 (No waivers), 20 (Severability), 21 (Third party rights), 22 (Entire agreement), 23 (Law and jurisdiction) and 25 (Notices) will survive termination and continue in effect indefinitely.

16 Scope

16.1 These terms and conditions shall not constitute or effect any assignment of any Intellectual Property Rights. With the exception of clauses 5.3(a) and 13.2 and 13.4 these terms and conditions shall not constitute or effect any licence of any Intellectual Property Rights.

16.2 With the exception of clauses 5.3(a) and 13.2 and 13.4, these terms and conditions shall not govern the licensing of works (including software and literary works) comprised or stored in Products.

- 16.3 These terms and conditions shall not govern the provision of any services by us or any third party in relation to the Products (other than delivery services).

17 Variation

- 17.1 A revision of these terms and conditions will apply to contracts entered into at any time following the time of the revision, but will not affect contracts made before the time of the revision.
- 17.2 Except as set out in these terms and conditions no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed or issued by us.

18 Assignment

- 18.1 You hereby agree that we may assign, transfer, sub-contract or otherwise deal with our rights and/or obligations under these terms and conditions.
- 18.2 You may not without our prior written consent assign, transfer, sub-contract or otherwise deal with any of your rights and/or obligations under these terms and conditions and our consent may not be unreasonably withheld or delayed.

19 No waivers

- 19.1 No breach of any provision of the Contract under these terms and conditions will be waived except with the express written consent of the party not in breach.
- 19.2 No waiver of any breach of any provision of the Contract under these terms and conditions shall be construed as a further or continuing waiver of any breach of that provision or any other provision of the Contract.

20 Severability

- 20.1 If a provision or part-provision of the Contract is or becomes invalid unlawful and/or unenforceable, the other provisions will continue in effect.
- 20.2 If any invalid unlawful and/or unenforceable provision of the Contract under these terms and conditions would be valid lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

21 Third party rights

- 21.1 The Contract under these terms and conditions is for our benefit and your benefit, and is not intended to benefit or be enforceable by any third party.
- 21.2 The exercise of the parties' rights under the Contract under these terms and conditions is not subject to the consent of any third party.

22 Entire agreement

Subject to clause 12.1, these terms and conditions shall constitute the entire agreement between you and us in relation to the sale and purchase of our Products and shall supersede all previous agreements between you and us in relation to the sale and purchase of our Products. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by us or on our behalf which is not set out in these terms and conditions.

23 Law and jurisdiction

- 23.1 The Contract under these terms and conditions shall be governed by and construed in accordance with Scots Law.
- 23.2 Any disputes relating to this Contract under these terms and conditions shall be subject to the exclusive jurisdiction of the courts of Scotland.

24 Statutory and regulatory disclosures

- 24.1 These terms and conditions are available in the English language only.
- 24.2 Our VAT number is GB 634817918.

25 Notices

- 25.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier or e-mail.
- 25.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 25.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, upon transmission.
- 25.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.