

Data Card Limited Terms and Conditions of Sale

These terms and conditions, together with Data Card Limited ("Datacard") sales order form ("Order") and any other attachment(s) listed by Datacard in the Order, constitute the entire agreement ("Agreement") between Datacard and the purchasing party listed on the Order ("Customer") under which Datacard agrees to deliver and Customer agrees to purchase, the products ("Products") and services ("Services") (collectively, the "Deliverables") identified on the Order.

Term. The term of this Agreement is as shown on the Order, and if no term is shown on the Order, this Agreement will terminate at the time of shipment of the last Deliverable to the address shown on the Order. This Agreement will not automatically renew.

Payments. Customer will pay all charges, expenses, penalties and fees specified in this Agreement in GBP and in a timely manner. Unless otherwise specified, all invoiced amounts shall be due and payable by the 30th day following the date of invoice. If facts or circumstances lead Datacard to reasonably conclude that Customer will not, or will not be able to, pay amounts due hereunder when they become due, Datacard may, without breach of this Agreement or penalty, withhold or stop delivery hereunder. Customer understands and agrees that Datacard has the right to apply any credit balance in Customer's account(s) against any amount owed to it by Customer. Any and all amounts not paid when due shall be subject to default interest at the rate of 8% per annum above the then prevailing base rate of the Bank of England or (if different) the amount prescribed by applicable law. The interest shall accrue from day to day and be compounded monthly from the due date until the date of actual payment (after as well as before any judgment).

Shipment. Absent a contrary delivery term elsewhere in this Agreement, Products shall be delivered at Datacard's sole discretion either EXW (INCOTERMS 2010) (place of manufacture) if Datacard does not provide export clearance or FCA (INCOTERMS 2010) if Datacard does provide export clearance. Customer shall be responsible for obtaining all insurance needed and for all shipping charges. Unless otherwise provided elsewhere in this Agreement, Deliverables will be deemed to be accepted by the Customer upon delivery in accordance with the INCOTERMS stated above. Customer is responsible for installation of the Deliverables.

Taxes. All prices as set forth in this Agreement are exclusive of any applicable government, or local taxes or VAT which are imposed as a result of transactions under this Agreement, and the same shall be invoiced as a separate item to Customer, unless Customer shall have supplied to Datacard documentation showing that Customer is authorized by law to be exempt from taxation or to pay any such taxes directly to the appropriate governmental jurisdiction. Income taxes, or similar taxes, assessed or imposed on Customer shall remain Customer's responsibility.

Title. Datacard reserves a security interest in and to any inventory of Products shipped to Customer and any proceeds or accounts receivable related thereto, regardless of the manner or terms of shipment, until full payment therefor has been made by Customer. Customer agrees to execute such security agreements and financing statements as are customarily used in Customer's locale and as may be required by Datacard from time to time, to be filed as Datacard deems appropriate. Notwithstanding the above provision, the parties agree that all ownership, legal title, risk of loss or damage passes from Datacard to Customer upon delivery of Products to the shipping carrier. Any and all software provided by Datacard shall at all times be and remain the exclusive property of Datacard with Customer receiving only a license to use software in accordance with the accompanying documentation.

Warranties. Datacard makes no warranties with respect to the Deliverables other than those, if any, set forth in the documentation delivered by Datacard with the Products or Services, which warranties are subject to the limitations set forth in this paragraph. With respect to equipment and supplies, Datacard warrants only that the goods are free from defects in material and workmanship during the applicable time period set forth in the accompanying warranty documentation. With respect to software, Datacard warrants only that the software will perform in accordance with Datacard's published specifications during the applicable time period set forth in the accompanying warranty documentation. Datacard's obligation under any equipment warranty is limited to repairing or replacing, at Datacard's option, the goods at no charge to Customer, and is conditioned upon (i) Customer's proper use, maintenance, management and supervision of the goods, (ii) the use with the equipment of supplies or consumable materials supplied by Datacard, (iii) a suitable operating environment for the goods; and (iv) the absence of any intentional or negligent act or other cause external to the goods affecting their operability or performance. Any maintenance services undertaken as a result of Customer's failure to comply with these conditions will be charged at Datacard's then-current time and materials rates. Any such warranty will be null and void if, without the prior written approval of Datacard, which approval will not be unreasonably withheld, there shall be any maintenance performed on the Product other than by Datacard or other qualified party which is approved by Datacard, or any addition to, removal from or modification of the Product is made without Datacard's approval. All parts replaced under warranty will become the property of Datacard. Customer will be responsible for the cost of all requested maintenance service provided for the Products by Datacard, which is not covered pursuant to the stated warranty.

DISCLAIMER OF WARRANTIES/LIMITATION OF LIABILITY. EXCEPT AS SPECIFICALLY STATED IN THIS DOCUMENT OR IN WARRANTY DOCUMENTATION SET FORTH IN THE ORDER, ATTACHMENTS, OR DOCUMENTATION DELIVERED WITH THE PRODUCTS OR SERVICES, DATACARD HEREBY DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, WITH REGARD TO THE PRODUCTS AND SERVICES PROVIDED TO CUSTOMER, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. IN NO EVENT SHALL DATACARD BE LIABLE TO CUSTOMER FOR LOSS OF PROFIT (WHETHER DIRECT OR INDIRECT) OR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR RELATED TO, THE FURNISHING OF PRODUCTS OR PERFORMANCE OF SERVICES UNDER THIS AGREEMENT, UNDER ANY THEORY OF LAW, EVEN IF DATACARD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. IN NO EVENT SHALL DATACARD'S AGGREGATE LIABILITY TO CUSTOMER FOR DAMAGES ARISING OUT OF, OR RELATED TO, THE FURNISHING OF PRODUCTS OR PERFORMANCE OF SERVICES UNDER THIS AGREEMENT, UNDER ANY THEORY OF LAW, EXCEED THE SUM OF ALL PAYMENTS MADE TO DATACARD BY CUSTOMER HEREUNDER UP TO THE TIME THE CAUSE AROSE. NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY FOR (A) DEATH OR PERSONAL INJURY ARISING FROM ITS NEGLIGENCE OR THAT OF ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS; (B) FRAUD; OR (C) ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Intellectual Property Indemnity. Datacard shall defend, at its expense, any action brought against Customer to the extent that it is based upon a claim that the Product(s), or any part thereof, infringes UK patents, copyrights, or trade secret rights, and Datacard shall pay those costs and damages finally awarded against Customer which are attributable to such claim, but Datacard's assumption of such defense and payments is conditioned upon the following: (a) that Datacard shall be notified immediately in writing by Customer of any knowledge or notice Customer has concerning such action or related claim, or the possibility thereof, (b) that Datacard shall have the sole control of the defense of any action on such claim and all negotiations for its settlement, and (c) that should the Product, or any part thereof, become, or in Datacard's opinion be likely to become, the subject of a claim of infringement of UK patents, copyright, trade secret or other proprietary right, Customer shall permit Datacard, at its sole option and expense, (i) to procure for Customer the right to continue using the Product, (ii) to replace or modify the same with new or rehabilitated Product so that the Product becomes non-infringing, or if Datacard is unable to reasonably perform either alternative (i) or (ii), then at the sole option of Datacard, (iii) to remove the Product after giving Customer thirty days prior written notice and reimburse Customer for the reasonable value of the Product at that time consistent with its age and overall condition. Such removal shall be at Datacard's expense.

Datacard shall have no liability to Customer under any provisions of this section with respect to any claim, judgment or finding of patent, copyright or trade secret or other proprietary right infringement which is based upon: (a) the combination or utilization of the Product with equipment, supplies or devices not furnished by Datacard; (b) "process patent" infringement, with the exception of infringement arising from Datacard's own process patent; (c) use of the Product in any manner that is inconsistent with the purpose for which the Product was designed; (d) use of the Product in a manner inconsistent with the explicit provisions in Datacard's documentation for that Product (e) the relocation of the Product to a location other than that in which it was installed without Datacard's prior written approval; (f) modification of the Product in any manner without Datacard's explicit prior written approval, for such modification; or (g) the use in conjunction with the Product of devices, supplies or software provided by Customer.

THE FOREGOING STATES THE ENTIRE LIABILITY OF DATACARD WITH RESPECT TO INFRINGEMENT OF PATENTS, COPYRIGHTS, TRADE SECRETS OR OTHER PROPRIETARY RIGHTS ARISING OUT OF OR BASED UPON THE SALE OR USE OF THE PRODUCTS AND DATACARD SHALL HAVE NO OTHER LIABILITY OR OBLIGATION TO CUSTOMER OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LOST BUSINESS OPPORTUNITY, LOST PROFIT (WHETHER DIRECT OR INDIRECT), LOST EFFICIENCY, REPLACEMENT COSTS OR ANY CONSEQUENTIAL OR INDIRECT LOSSES OR DAMAGES.

Customer's Indemnification. Customer agrees to defend and indemnify Datacard from and against any and all claims, charges, suits, damages, and expenses of every kind and nature whatsoever, including legal fees and expenses, arising out of or based upon its use or operation of the Deliverables or other activities related thereto.

Independent Contractor. Datacard is acting hereunder as an independent contractor and shall have sole supervision of and responsibility for its authorized maintenance personnel.

Personnel. Customer acknowledges that Datacard has specially trained personnel who perform services hereunder and agrees that during the term hereof Customer will not solicit or otherwise attempt to employ any such Datacard employee without the prior written consent of Datacard.

Force Majeure. In no event shall Datacard be responsible for delays in performance when the same are the result of any cause beyond Datacard's control, including but not limited to fires, floods, strikes or other labor disputes, accidents to machinery, acts of sabotage, riots, precedents or priorities granted at the request or for the benefit, directly or indirectly, of any government or any subdivision or agency thereof, delay in transportation or lack of transportation facilities, or restrictions imposed by governmental rule or regulation.

Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior, contemporaneous or subsequent oral agreements and/or writings. Each party acknowledges that in entering into this Agreement, it has not relied on any prior representation, warranty, collateral contract or other assurance (except those set out in this Agreement) made by or on behalf of the other party and each party waives all rights and remedies which, but for this clause might be available to it provided that nothing limits or excludes any liability for fraudulent misrepresentations.

Amendments. This Agreement may only be modified in writing by mutual consent of the authorized representatives of the parties. Purchase orders and other documents provided by Customer or Datacard prior to, concurrently with or subsequent to the execution of this Agreement, notwithstanding any statements to the contrary contained in those documents, shall not amend the terms of this Agreement, and Datacard's delivery of any Products or Services against them shall not constitute acceptance of any terms printed on them. Any request by Datacard for or reference to a purchase order or purchase order number is for administrative purposes only and shall not be construed as incorporating into this Agreement any terms or conditions contained in such purchase order.

Assignment. Datacard may assign any or all of its rights or delegate any or all of its obligations under this Agreement without the consent of Customer. Customer may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Datacard.

Waiver. The observance of any term of this Agreement may be waived only by the party benefited by such term. Any such waiver shall be limited to the particular circumstance or event and shall not be deemed a waiver of any other term hereof or of the same circumstance or event upon any recurrence thereof. The failure of either party at any time to require the performance by the other of any of the terms or provisions hereof or the waiver by one party of any of the provisions hereof shall in no way affect the right of that party thereafter to enforce the same.

Governing Law. The parties agree to exclude application of the United Nations Convention on the International Sale of Goods. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales without regard to conflicts of laws provisions. The parties hereby expressly submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to any non-contractual obligations arising out of or in connection with this Agreement).

Third Party Rights. A person who is not a party to this Agreement may not enforce its terms under the Contracts (Rights of Third Parties) Act 1999.

General. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining provisions shall nevertheless be given full force and effect. Captions used herein are for convenience only and shall not be deemed a part of this Agreement nor used to construe any of its provisions. All notices specified in this Agreement shall be in writing and sent by registered mail to the address of the party as set forth on the first page of this document.