

# ADVANCED DOWNLOADING LTD

STANDARD TERMS & CONDITIONS OF TRADE. THIS AGREEMENT IS MADE BY AND BETWEEN ADVANCED DOWNLOADING LTD HEREINAFTER REFERRED TO AS THE COMPANY, WHOSE PRINCIPAL OFFICES ARE LOCATED AT 12 REDWOODS, ALTON ROAD, LONDON, SW15 4NL, AND THE CUSTOMER, WHO IS THE PERSON, SOLE TRADER, PARTNERSHIP, LIMITED COMPANY, PUBLIC LIMITED CO OR ANY OTHER ENTITY WHO REQUESTS OR ACCEPTS A QUOTATION AND/OR ORDER FOR OR OF GOODS AND/OR SERVICES OFFERED BY ADVANCED DOWNLOADING LTD.

## 1 THE CONTRACT

- 1.1 THESE CONDITIONS APPLY TO ALL BUSINESS BETWEEN THE COMPANY AND THE CUSTOMER.
- 1.2 THESE CONDITIONS SHALL PREVAIL OVER ANY TERMS OFFERED BY THE COMPANY UNLESS THE CUSTOMER MAKES SPECIFIC WRITTEN PROVISION TO THE BUYER WAIVING SPECIFIC CLAUSES.

## 2 STANDARD PRICE CONDITIONS

- 2.1 ALL PRICES ARE QUOTED EXCLUSIVE OF VALUE ADDED TAX, WHICH WILL BE CHARGED AT THE APPROPRIATE RATE.
- 2.2 THE SELLING PRICE IS QUOTED EXCLUSIVE OF CARRIAGE, EITHER TO OR FROM THE COMPANIES PREMISES, UNLESS WRITTEN ARRANGEMENT IS MADE.
- 2.3 THE COMPANY RESERVES THE RIGHT TO RE-QUOTE ON SIGHT. ANY EXTRA PROVISIONS, I.E. EXPRESS TURNAROUND, SITE WORK, TUITION ETC. MAY INCUR EXTRA CHARGES AT THE DISCRETION OF THE COMPANY.

## 3 PAYMENT

- 3.1 UNLESS A SPECIFIC DISPENSATION HAS BEEN MADE IN FAVOUR OF THE CUSTOMER, ALL WORK IS UNDERTAKEN ON A PAYMENT WITH ORDER BASIS. A DELAY IN PAYMENT WILL CAUSE A DELAY IN DESPATCH.
- 3.2 THE COMPANY RESERVES THE RIGHT TO DEMAND SECURITY PAYMENT FROM THE CUSTOMER AT ANY POINT DURING AN ORDER AT ITS DISCRETION.
- 3.3 THE GOODS REMAIN THE SOLE PROPERTY OF THE COMPANY UNTIL SUCH TIME AS ALL MONIES OWED ARE PAID IN FULL. IN THE EVENT OF THE CUSTOMER BEING UNABLE OR REFUSING TO PAY ANY OUTSTANDING DEBTS TO THE COMPANY, THE COMPANY RESERVES THE RIGHT TO RECLAIM ALL GOODS, AND/OR PRESENT A WINDING UP PETITION SUBJECT TO THE LAWS OF THE LAND. THIS CLAUSE SHALL NOT AFFECT THE RIGHTS OF THE CUSTOMER UNDER THE SALE OF GOODS ACT 1979.

## 4 DELIVERY

- 4.1 ALL DELIVERY COSTS, UNLESS OTHERWISE STATED IN WRITING, ARE PAYABLE BY THE CUSTOMER.
- 4.2 THE COMPANY SHALL BEAR NO LIABILITY FOR LOSSES DUE TO DELAYED OR FAILED DELIVERIES.
- 4.3 THE COMPANY RETAINS THE RIGHT TO MAKE PART DELIVERIES AT ITS DISCRETION.

## 5 INSPECTION OF GOODS

- 5.1 IT IS THE EXPRESS DUTY OF THE CUSTOMER TO INSPECT THE GOODS UPON RECEIPT.
- 5.2 WHERE IT IS NOT FEASIBLE FOR THE CUSTOMER TO EXAMINE THE GOODS ON RECEIPT, IT IS THEIR RESPONSIBILITY TO MARK ANY CARRIERS' NOTE OR SIMILAR AS SUCH. (E.G. GOODS NOT EXAMINED. ETC.)
- 5.3 IN ANY CASES WHERE FAULT OR SHORTAGE IS FOUND IN A DELIVERY, THE COMPANY IS UNDER NO LIABILITY IN RESPECT THEREOF UNLESS AN OPPORTUNITY TO INSPECT THE GOODS IS SUPPLIED TO THE COMPANY BEFORE ANY ALTERATION OR USE THEREOF IS MADE TO THE GOODS BY THE CUSTOMER.
- 5.4 IN ANY CASE WHERE THERE IS A PROBLEM WITH ANY GOODS SUPPLIED BY THE COMPANY, THE COMPANY IS UNDER NO LIABILITY AND CAN BEAR NO COSTS AS A RESULT OF SUBSEQUENT LOSSES.
- 5.5 SUBJECT TO 5.3 THE COMPANY WILL MAKE GOOD ANY FAULTY, SHORT OR DAMAGED (IN TRANSIT) ORDER AND WHERE APPROPRIATE REPLACE OR RE-DO ANY GOODS SUPPLIED SO LONG AS IT IS REASONABLY ABLE TO DO SO, BUT IS OTHERWISE UNDER NO LIABILITY WHATSOEVER ARISING FROM SUCH FAULTS, SHORTAGE OR DAMAGE.
- 5.6 THE COMPANY WILL NOT BY DEFAULT HOLD MASTER COPIES AND/OR BACKUP DATA ON ITS PREMISES.

## 6 CUSTOMER'S WARRANTIES.

- 6.1 NO REPRESENTATION OR WARRANTY IS GIVEN AS TO THE SUITABILITY OR FITNESS OF THE GOODS OR SERVICES FOR ANY PARTICULAR PURPOSE AND THE CUSTOMER SHALL SATISFY THEMSELVES IN THIS RESPECT AND SHALL BE TOTALLY RESPONSIBLE THEREFORE.
- 6.2 IF THE GOODS ARE IN SUCH A STATE AS WOULD BUT FOR THIS CONDITION ENTITLE THE COMPANY TO REPUDIATE THE CONTRACT AND/OR CLAIM DAMAGES FROM THE CUSTOMER, THE CUSTOMER RESERVES THE RIGHT TO REPAIR OR REPLACE THE GOODS
- 6.3 THE COMPANY MAY REFUSE TO MANUFACTURE, REPLICATE, SUPPLY OF OR OTHERWISE DEAL WITH ANY MATTER WHICH IT CONSIDERS MAY BE ILLEGAL OR UNLAWFUL OR IN CIRCUMSTANCES IN WHICH THE COMPANY BELIEVES THAT ANY SUCH MANUFACTURE OR DEALING BY IT MAY INFRINGE THE RIGHTS OF ANY THIRD PARTY OR INVOLVE IT IN ANY ILLEGAL OR UNLAWFUL ACT OR DEFAULT.
- 6.4 IT IS A CONDITION OF THIS AGREEMENT (AND THE CUSTOMER UNDERTAKES) THAT:
- 6.5 THE MANUFACTURE OR SUPPLY OR OTHER DEALING WITH THE GOODS OR THE PERFORMANCE OF THE SERVICES BY THE COMPANY WILL NOT INFRINGE THE COPYRIGHT OR OTHER RIGHTS OF ANY THIRD PARTY AND WILL NOT RESULT IN THE COMPANY ENGAGING OR BEING INVOLVED WITH ANY UNLAWFUL ACT AND NEITHER WILL IT RESULT IN THE COMPANY INCURRING ANY LIABILITY WHATSOEVER TO ANY PERSON, FIRM, COMPANY OR OTHER ORGANISATION.
- 6.6 THE CUSTOMER HAS COMPLIED WITH ALL OBLIGATIONS AND HAS OBTAINED ALL PERMISSIONS AND CONSENTS NECESSARY FOR THE MANUFACTURE, SUPPLY, DISTRIBUTION AND OTHER DEALINGS WITH THE GOODS.

- 6.7 THE GOODS WILL COMPLY WITH ALL STATUTORY AND REGULATORY PROVISIONS APPLYING TO THE GOODS, INCLUDING WHERE APPLICABLE THE VIDEO RECORDINGS ACT 1984 (AND THE REGULATIONS MADE UNDER IT)
- 6.8 THE GOODS (AND ANY DEALING WITH THEM OR SERVICES PERFORMED IN CONNECTION WITH THEM) WILL NOT BE OBSCENE, DEFAMATORY, BLASPHEMOUS OR IN ANY OTHER WAY ILLEGAL OR UNLAWFUL.
- 6.9 THE CUSTOMER WILL INDEMNIFY THE COMPANY AGAINST ALL LOSSES, DAMAGES, COSTS AND EXPENSES (INCLUDING LEGAL FEES ON AN INDEMNITY BASIS) WHICH THE COMPANY INCURS OR BECOMES LIABLE FOR AS A RESULT OF ANY CLAIM THE MANUFACTURE OR SUPPLY OF OR OTHER DEALING WITH THE GOODS OR ANY SERVICES PERFORMED IN CONNECTION WITH ANY GOODS BY THE COMPANY INFRINGES THE RIGHTS OF ANY THIRD PARTY OR IS OTHERWISE ILLEGAL OR UNLAWFUL OR AS A RESULT OF ANY BREACH BY THE CUSTOMER OF ANY TERM OF THIS AGREEMENT.

## 7 COMPANY'S WARRANTIES.

- 7.1 THE COMPANY WARRANTS THAT THE SERVICES WILL BE PERFORMED WITH REASONABLE SKILL AND CARE.
- 7.2 SUBJECT AS EXPRESSLY PROVIDED IN THESE CONDITIONS, ALL WARRANTIES, CONDITIONS OR OTHER TERMS IMPLIED BY STATUTE OR AT COMMON LAW ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

## 8 LIABILITY

- 8.1 THE COMPANY DOES NOT ACCEPT ANY LIABILITY FOR MISUSE OF ANY GOODS SUPPLIED TO THE CUSTOMER.
- 8.2 ANY DEFECTS IN GOODS SUPPLIED WILL BE CORRECTED ONLY IF THE COMPANY IS NOTIFIED IN WRITING WITHIN 7 DAYS OF RECEIPT OF THE GOODS.
- 8.3 IT IS THE SOLE RESPONSIBILITY OF THE CUSTOMER TO RETURN ANY GOODS FOR REPLACEMENT.
- 8.4 THE RISK OF ANY ACCIDENTAL LOSS OF GOODS BEING RETURNED IS THE SOLE LIABILITY OF THE CUSTOMER.
- 8.5 THE COMPANY WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR INDIRECT LOSS SUFFERED BY THE CUSTOMER, NO MATTER WHAT CIRCUMSTANCES THE LOSS IS INCURRED.

## 9 FORCE MAJEURE

- 9.1 THE COMPANY SHALL NOT BE LIABLE FOR ANY FAILURE TO DELIVER ANY GOODS FOR THE REASONS THAT LIE BEYOND THE COMPANY'S CONTROL.

## 10 DOCUMENTATION

- 10.1 ALTHOUGH THE COMPANY TAKES EVERY ACTION POSSIBLE TO KEEP ALL OF ITS DOCUMENTATION UP TO DATE, SUCH INFORMATION IS FOR THE CUSTOMER'S GENERAL GUIDANCE ONLY. THE COMPANY IS UNDER NO PARTICULAR OBLIGATION TO HOLD ANY PARTICULAR PRICE MENTIONED THEREIN.

## 11 OTHER CONTRACTS

- 11.1 NO THIRD PARTY CONTRACTS AND/OR ANY AGREEMENT MADE BETWEEN THE CUSTOMER AND ANY THIRD PARTY SHALL BIND THE COMPANY UNLESS SPECIFIC PROVISION IS MADE IN WRITING AND SIGNED BY AN AUTHORISED SIGNATORY EMPLOYED BY THE COMPANY.
- 11.2 ANY BREACH OF COPYRIGHT IS THE SOLE RESPONSIBILITY OF THE CUSTOMER, AND THE BUYER SHALL INDEMNIFY THE COMPANY IN RESPECT OF ALL DAMAGES RESULTING FROM A CLAIM OF THIS TYPE.

## 12 STORAGE FEES

- 12.1 THE COMPANY RESERVES THE RIGHT TO CHARGE MONTHLY STORAGE FEES FOR EQUIPMENT AND/OR MATERIALS HELD BY THE COMPANY FOR LONGER THAN THREE MONTHS.
- 12.2 THE COMPANY RESERVES THE RIGHT TO WITHHOLD THE RELEASE OF ANY SUCH EQUIPMENT AND/OR MATERIALS UNTIL ALL STORAGE FEES HAVE BEEN PAID IN FULL.
- 12.3 IN THE EVENT OF THE CUSTOMER BEING UNABLE OR REFUSING TO PAY ANY OUTSTANDING STORAGE FEES THE COMPANY RESERVES THE RIGHT TO DESTROY OR SELL WITHOUT NOTICE ALL EQUIPMENT AND/OR MATERIALS HELD IN STORAGE FOR LONGER THAN 6 MONTHS

## 13 GENERAL

- 13.1 THE CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH ENGLISH LAW AND ALL DISPUTES ARISING WITH THE CONTRACT SHALL BE SUBMITTED TO THE JURISDICTION OF THE ENGLISH COURTS.

**TERMS SUBJECT TO CHANGE WITHOUT NOTICE.**