

General Terms and Conditions of Sale and Delivery

1. General

The conditions below shall apply to all transactions between the Buyer and ADS Aerospace Ltd (in the following called ADS) unless a duly signed contract or other written agreement is agreed upon with regard to one or more of the below-mentioned sales and delivery conditions. The Buyer agrees that the products purchased are for the Buyer's own use and are not for immediate re-sale. Only products that completely comply with the requirements of the relevant Installation Manual will be allowed access to the airtime services and web application.

2. Orders

The Buyer's purchase order shall specify the product identification code, requested quantities, requested shipping date(s), and delivery instructions, including delivery address but any additional Terms and Conditions shall not be binding upon ADS. No terms or conditions (whether contained in the Buyers Official Purchase Order or otherwise) shall be binding on ADS other than those set out herein, unless expressly agreed otherwise by ADS in writing. No later than 14 days from ADS' receipt of each order, ADS shall issue to the Buyer an order confirmation specifying the products to be delivered, the price thereof and the estimated time of delivery. The terms of the order confirmation shall then be considered as agreed between the parties, unless the Buyer objects thereto in writing within 5 days of his receipt of the order confirmation.

3. Prices, Payment Terms, Delivery Terms

Prices of products and terms of payment and delivery shall be set out on the quotation. All prices are ex works (EXW in accordance with INCOTERMS 2000) from ADS' Office (Bracknell United Kingdom) and exclude VAT, Import Duties, Taxes, and ADS' charges for transport and insurance.

Standard payment for products shall be prior to shipment. ADS may require more stringent terms for any sale/purchase, if ADS at its discretion find reasons therefore. If the Buyer has to effect payment in advance to ADS, payment must be received prior to shipment from ADS.

Payment for Services shall be made upon receipt of invoice, and in no circumstances shall the Buyer be entitled to make any deduction or withhold payment for any reason at all.

The Buyer shall pay ADS on or before the due date. In case of late payment of any amount payable by the Buyer to ADS under this agreement, interest shall accrue on late payments at a default interest rate of 1.5 % (one and a half percentage) per month, calculated as from the due date. ADS reserves the right to adjust the default interest rate in conformity with any changes in the official Barclays Bank deposit rate. ADS retains full title to all Goods supplied to the Buyer until full payment therefore has been received by ADS.

ADS shall not be liable to the Buyer for any refunding of VAT if the Buyer fails to notify ADS of its VAT registration number as required in accordance with EU rules and legislation.

The Buyer is responsible for any importation, licence, or local certification requirements.

4. Cancellation

No cancellation, suspension or variation by Buyer of an order shall be valid unless agreed by ADS in writing. Such agreement shall be entirely at ADS's discretion.

5. Delay in Delivery

Unless ADS has separately in writing undertaken an express guarantee (using the word “guarantee”) of delivery at a certain time, ADS shall not be liable for any delay in delivery. However, if there is a delay in delivery of more than 4 weeks from the estimated time of delivery according to the order confirmation, ADS shall inform the Buyer hereof in writing by issuing a revised order confirmation. The revised order confirmation shall then constitute the revised agreement between the parties concerning the delivery in question, unless – within 5 days of his receipt of the revised order confirmation – the Buyer cancels the order for the delayed products. The Buyer shall (in the absence of any expressed guarantee as stated above) have no other right or remedy against ADS for delay in delivery than this cancellation right.

6. Title

ADS retains title to all products supplied to the Buyer until full payment therefore has been received by ADS.

7. Limited Warranty

ADS warrants that the products will be free from defects in material and workmanship for a period of one (1) year from date of purchase. During the warranty period ADS will, at its option, either repair or replace products that prove to be defective. If a defect exists, at its option ADS will repair the product at no charge, using new or refurbished replacement parts, or exchange the product with a product that is new or which has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original product. A replacement product assumes the remaining warranty of the original product or 90 days, whichever is the longer for you. All Hardware (or part thereof) that is replaced by ADS shall become the property of ADS upon replacement. ADS does not warrant that the operation of the equipment or firmware will be uninterrupted or error free. For warranty service or repair the product must be returned to a service facility designated by ADS quoting the information contained in the Installation Manual. Failure to do so could invalidate or delay any warranty repair. Any items returned shall require a RMA (Return Material Authorisation) issued by ADS to enable the goods to be accepted. Failure to obtain a RMA shall result in the immediate return of the goods at the Buyers expense.

All costs incurred by the Buyer and related to the defective product shall be for the Buyer's account and risk, including but not limited to any costs related to the original installation, subsequent dismantling, removal, and shipment of the defective product, and renewed installation.

The foregoing warranty shall not apply to defects resulting from improper or inadequate maintenance by the Buyer, Buyer-supplied software (scripts) or interfacing, unauthorized modification, repair or misuse, operation outside of the environmental specifications for the product, or improper installation or damage caused by lightning, overload or short circuit of from liquids inside or outside the product. It shall also not apply to installations that do not comply with the recommendations or instructions stated in the Installation Manual in its entirety. Buyer should be aware that the warranty is specific to the Buyer and is non-transferable. Any attempts to repair or alter our products by persons other than ADS will negate the warranty and may result in the products being barred from airtime service.

Except for the one (1) year limited warranty specified herein, the product is provided “as-is” without any warranty of any kind including, without limitation, any warranty of merchantability, fitness for a particular purpose and non-infringement. If any implied warranty cannot be disclaimed in any territory where a product is sold, the duration of such implied warranty shall be limited to ninety (90) days. Except as expressly covered under the limited warranty provided herein, the entire risk as to the quality, selection and performance of the product is with the purchaser of the product. To the maximum extent permitted by law, ADS is not liable under any contract, negligence, strict liability or other legal or equitable theory for any loss of use of the product, inconvenience or damages of any character, whether direct, special, incidental or consequential (including, but not limited to, damages for loss of goodwill, work stoppage, computer failure or malfunction, loss of information or data contained in, stored on, or integrated with any product returned to ADS for warranty repair) resulting from the use of the product, relating to warranty service, or arising out of any breach of this limited warranty, even if ADS has been advised of the possibility of such damages. The sole remedy for a breach of the foregoing limited warranty is repair or replacement of the defective or non-conforming product.

The laws of England and Wales shall govern this one (1) year warranty. Some countries do not allow the exclusion or limitation of incidental or consequential damages or exclusions or limitations on the duration of implied warranties or conditions. The above limitations may not therefore apply to you. This warranty gives you specific legal rights, and you may also have rights that vary by country.

8. WEEE treatment in EU

The obligations for treatment of waste from electrical and electronic equipment (WEEE) according to the EU directive 2002/96/EC and as amended will be the responsibility of the Buyer.

9. Force Majeure

Neither party shall be deemed to be in default when performance of the obligations of such party is prevented or made unreasonably burdensome due to any cause which was beyond the reasonable control of such party and which such party could not reasonably be expected to have foreseen, avoided or overcome, including but not limited to any event attributable to Acts of God, embargoes, unavailability of raw materials, power, water or the utilities necessary to operate the facilities of a party, war or acts of war, terrorism, general strikes and lock-outs and other similar events affecting the activities of a party, provided however that the party suffering force majeure as soon as possible informs the other party thereof giving details of the force majeure cause and its expected duration and implication for the performance of this agreement.

10. Limitation of liability

Neither party shall be liable in damages or compensation to the other party for indirect or consequential damages.

11. Venue and Governing Law

Any dispute between the Buyer and ADS, which the parties cannot resolve between themselves in good faith, shall be governed by and construed according to English law by the High Court in London, England.

ADS Aerospace Limited

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