

## TERMS AND CONDITIONS OF SALE

### 1. Interpretation

In these Conditions:

'BUYER' means the person who accepts a quotation of SATRA for the sale of the Goods or whose order for the Goods is accepted by SATRA

'GOODS' means the physical or digital product or service (including any instalment of the goods or any parts for them) which SATRA is to supply in accordance with these Conditions, which, for the avoidance of doubt, shall not include any intellectual property rights in the Goods.

'SATRA' means SATRA Technology Centre Limited, SATRA House, Rockingham Road, Kettering, Northamptonshire NN16 9JH (registered in England under number 03856296)

'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and SATRA

'CONTRACT' means the contract for the purchase and sale of the Goods

'WRITING' includes receipted email, facsimile transmission and comparable means of communication.

1.1. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.2. The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 2. Basis of the sale

2.1. SATRA shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of SATRA which is accepted by the Buyer, or any written order of the Buyer which is accepted by SATRA, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2.2. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and SATRA.

2.3. SATRA's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by SATRA in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.4. Any advice or recommendation given by SATRA or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by SATRA is followed or acted upon entirely at the Buyer's own risk, and accordingly SATRA shall not be liable for any such advice or recommendation which is not so confirmed.

2.5. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by SATRA shall be subject to correction without any liability on the part of SATRA.

### 3. Orders and specifications

3.1. The Buyer shall be responsible to SATRA for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving SATRA any necessary information relating to the Goods within a sufficient time to enable SATRA to perform the Contract in accordance with its terms.

3.2. Any items provided to SATRA by the Buyer in order for SATRA to produce the Goods shall remain at all times at the Buyer's risk.

3.3. The quantity, quality and description of and any specification for the Goods shall be those set out in SATRA's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by SATRA).

3.4. If the Goods are to be manufactured or any process is to be applied to the Goods by SATRA in accordance with a specification submitted by the Buyer, the Buyer shall indemnify SATRA against all loss, damages, costs and expenses awarded against or incurred by SATRA in

connection with or paid or agreed to be paid by SATRA in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from SATRA's use of the Buyer's specification.

3.5. SATRA reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to SATRA's specification, which do not materially affect their quality or performance.

3.6. No order which has been accepted by SATRA may be cancelled by the Buyer except with the agreement in Writing of SATRA and on terms that the Buyer shall indemnify SATRA in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by SATRA as a result of cancellation.

3.7. SATRA shall have the right to apply any of its trade names, trade marks and/or service marks to the Goods.

3.8. Any intellectual property (including but not limited to know how, techniques, SATRA trade names or trade/service marks etc) created by or belonging to SATRA contained in the Goods shall remain the property of SATRA. SATRA hereby grants the Buyer a royalty free licence to use the same for the free distribution of the Goods for its marketing purposes only. Any use of the intellectual property in any other medium or for any other purpose, and any use of the Goods for any purpose other than as envisaged by these Conditions, is prohibited and shall constitute a breach of this licence.

3.9. Any intellectual property provided by and therefore belonging to the Buyer contained in the Goods shall remain the property of the Buyer.

3.10. The Buyer shall not reverse engineer, copy, decompile or disassemble the Goods or any portion thereof, nor otherwise attempt to create or derive the source code of the software used in the Goods, except to the extent that SATRA is prevented from restricting the Customer from so doing under applicable UK and EC laws.

### 4. Price of the goods

4.1. The price of the Goods shall be SATRA's quoted price at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, SATRA's published export price list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by SATRA without giving notice to the Buyer.

4.2. SATRA reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to SATRA which is due to any factor beyond the control of SATRA (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give SATRA adequate information or instructions.

4.3. Except as otherwise stated under the terms of any quotation or in any price list of SATRA, and unless otherwise agreed in Writing between the Buyer and SATRA, all prices are given by SATRA on an ex works basis, and where SATRA agrees to deliver the Goods otherwise than at SATRA's premises, the Buyer shall be liable to pay SATRA's charges for transport, packaging and insurance.

4.4. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to SATRA.

### 5. Terms of payment

5.1. Subject to any special terms agreed in Writing between the Buyer and SATRA, SATRA shall be entitled to invoice the Buyer for 50% of the value of the Goods (the "Advance") on acceptance of the Buyer's order, a further 25% on the Buyer's acceptance of any proof, gold master and/or digital beta (the "Sign Off"), and the balance on delivery of the Goods. The Buyer's order will not be processed until the Advance is paid.

5.2. The Buyer shall pay the Advance and the Sign Off payments upon receipt of their respective invoices. The Buyer shall pay the balance Invoice within 21 days of its date and SATRA shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to SATRA, SATRA shall be entitled to:

5.3.1. cancel the contract or suspend any further deliveries to the Buyer;

5.3.2. appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and SATRA) as SATRA may think fit (notwithstanding any purported appropriation by the Buyer); and

5.3.3. charge the Buyer interest (both before and after any judgement) on the overdue balance at the rate of 4% above the bank base in force, calculated from the date of due payment until the date of actual payment.

### 6. Delivery

6.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at SATRA's premises at any time after SATRA has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by SATRA, by SATRA delivering the Goods to that place.

6.2. Any dates quoted for delivery of the Goods are approximate only and SATRA shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by SATRA in writing. The Goods may be delivered by SATRA in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3. Where delivery of the Goods is to be made by SATRA in bulk, SATRA reserves the right to deliver up to 5 per cent more or less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

6.4. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by SATRA to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.5. If SATRA fails to deliver the Goods (or any instalment) for any reason other than any cause beyond SATRA's reasonable control or the Buyer's fault, and SATRA is accordingly liable to the Buyer, SATRA's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.6. If the Buyer fails to take delivery of the Goods or fails to give SATRA adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of SATRA's fault) then, without prejudice to any other right or remedy available to SATRA, SATRA may:

6.6.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

### 7. Risk and property

7.1. Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1. in the case of Goods to be delivered at SATRA's premises, at the time when SATRA notifies the Buyer that the Goods are available for collection; or

7.1.2. in the case of Goods to be delivered otherwise than at SATRA's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when SATRA has tendered delivery of the Goods.

7.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until SATRA has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by SATRA to the Buyer for which payment is then due.

7.3. Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as SATRA's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as SATRA's property.

7.4. Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), SATRA shall be entitled at any time to require the Buyer to deliver up the Goods to SATRA and, if the Buyer fails to do so forthwith,

to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of SATRA, but if the Buyer does so all moneys owing by the Buyer to SATRA shall (without prejudice to any other right or remedy of SATRA) forthwith become due and payable.

#### **8. Warranties and liability**

8.1. Subject to the conditions set out below SATRA warrants that the Goods will correspond with their specification at the time of delivery and will be free from material defects in workmanship for a period of 3 months from the date of delivery. The Buyer shall have responsibility for ensuring that all corrections are made to any content incorporated on the Goods and for the sign off of the final version of Goods and/or any artwork proofs associated with them irrespective of any communication with and materials forwarded to SATRA by Buyer at any stage.

8.2. The above warranty is given by SATRA subject to the following conditions:

8.2.1. SATRA shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

8.2.2. SATRA shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow SATRA's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without SATRA's approval;

8.2.3. SATRA shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

8.2.4. the above warranty does not extend to parts, materials or equipment not manufactured by SATRA, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to SATRA.

8.3. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute, collaterally or common law are excluded to the fullest extent permitted by law.

8.4. Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

8.5. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to SATRA within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify SATRA accordingly, the Buyer shall not be entitled to reject the Goods and SATRA shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

8.6. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to SATRA in accordance with these Conditions, SATRA shall be entitled to replace the Goods (or the part in question) free of charge or, at SATRA's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but SATRA shall have no further liability to the Buyer.

8.7. Except in respect of death or personal injury caused by SATRA's negligence, SATRA shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses, loss of data or disruption to data or third party computer systems, or other claims for compensation whatsoever (whether caused by the

negligence of SATRA, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of SATRA under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

8.8. SATRA shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of SATRA's obligations in relation to the Goods, if the delay or failure was due to any cause beyond SATRA's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond SATRA's reasonable control:

8.8.1. Act of God, explosion, flood, tempest, fire or accident;

8.8.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.8.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

8.8.4. import or export regulations or embargoes;

8.8.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of SATRA or of a third party);

8.8.6. difficulties in obtaining raw materials, labour, fuel, parts or machinery;

8.8.7. power failure or breakdown in machinery.

#### **9. Indemnity**

9.1. If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, SATRA shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

9.1.1. SATRA is given full control of any proceedings or negotiations in connection with any such claim within 14 days;

9.1.2. the Buyer shall give SATRA all reasonable assistance for the purposes of any such proceedings or negotiations;

9.1.3. except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of SATRA (which shall not be unreasonably withheld);

9.1.4. the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);

9.1.5. SATRA shall be entitled to the benefit of, and the Buyer shall accordingly account to SATRA for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and

9.1.6. without prejudice to any duty of the Buyer at common law, SATRA shall be entitled to require the Buyer to take such steps as SATRA may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which SATRA is liable to indemnify the Buyer under this clause.

#### **10. Insolvency of buyer**

10.1. This clause applies if:

10.1.1. the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

10.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

10.1.3. the Buyer ceases, or threatens to cease, to carry on business; or

10.1.4. SATRA reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly, or

10.1.5. The Buyer breaches any term of this Agreement.

10.2. If this clause applies then, without prejudice to any other right or remedy available to SATRA, SATRA shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

#### **11. Export terms**

11.1. In these Conditions 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

11.2. Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Buyer and SATRA) apply notwithstanding any other provision of these Conditions.

11.3. The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

11.4. Unless otherwise agreed in Writing between the Buyer and SATRA, the Goods shall be delivered fob the air or sea port of shipment and SATRA shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

11.5. The Buyer shall be responsible for arranging for testing and inspection of the Goods at SATRA's premises before shipment. SATRA shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

11.6. Payment of all amounts due to SATRA shall be made by irrevocable letter of credit opened by the Buyer in favour of SATRA and confirmed by a bank in London acceptable to SATRA or, if SATRA has agreed in Writing on or before acceptance of the Buyer's order to waive this requirement, by acceptance by the Buyer and delivery to SATRA of a bill of exchange drawn on the Buyer payable 60 days after sight to the order of SATRA at such branch of the Bank in England as may be specified in the bill of exchange.

#### **12. General**

12.1. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2. No waiver by SATRA of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.3. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

12.4. Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the IEE.

12.5. The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.