

APPLIED CARD TECHNOLOGIES LIMITED - CONDITIONS OF SALE & PROVISION OF SERVICES

1 Definitions

- 1.1 'Customer' means the person who buys or agrees to buy the Goods and/or Services from ACT.
- 1.2 'Conditions' means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by ACT.
- 1.3 'Delivery Date' means the date specified by ACT when the Goods and/or Services are to be delivered.
- 1.4 'Goods and/or Services' means the articles or services which the Customer agrees to buy from ACT.
- 1.5 'Price' means the price for the Services and/or Goods excluding carriage, packing, insurance and VAT.
- 1.6 'Services' means the services, which the Customer agrees to buy from ACT.
- 1.7 'ACT' means Applied Card Technologies Limited (Registered Number 04476799) whose registered office is Langley Gate, Swindon Road, Kington Langley, Chippenham, Wiltshire. SN15 5SE.

2 Conditions applicable

- 2.1 These Conditions shall apply to all contracts for the sale of Goods and/or Services by ACT to the Customer to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document.
- 2.2 All orders for Goods and/or Services shall be deemed to be an offer by the Customer to purchase Goods and/or Services pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods and/or Services shall be deemed conclusive evidence of the Customer's acceptance of these Conditions.
- 2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by ACT.

3 The Price and payment

- 3.1 The Price shall be ACT's quoted price. The Price is exclusive of VAT and delivery, which shall be due at the rate ruling on the date of ACT's invoice.
- 3.2 Payment of the Price, VAT and delivery charges shall be due within 30 days of the date of the invoice. Time for payment shall be of the essence.
- 3.3 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 2% above Barclays Bank plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgment.
- 3.4 The Price of the Goods and/or Services shall be ACT's quoted price which shall be binding upon ACT provided that the Customer shall accept ACT's quotation within 30 days.
- 3.5 ACT may by giving notice to the Customer at any time up to 7 days before delivery increase the Price of the Goods and/or Services to reflect any increase in the cost to ACT which is due to factors occurring after the making of the contract of sale which are beyond the reasonable control of ACT (including, without limitation, foreign exchange fluctuations, taxes and duties and the cost of labour, materials and other manufacturing costs). Provided that the Customer may cancel this contract within 7 days of any such notice from ACT.
- 3.6 ACT shall not be bound to deliver the Goods and/or Services until the Customer has paid for them. Payment shall be due before the Delivery Date and time for payment shall be of the essence.
- 3.7 If the Customer fails to make any payment on the due date then without prejudice to any of ACT's other rights ACT may:
 - 3.7.1 suspend or cancel deliveries of any articles or the provision of Services due to the Customer; and/or
 - 3.7.2 appropriate any payment made by the Customer to such of the Goods and/or Services (or Goods and/or Services supplied under any other contract with the Customer) as ACT may in its sole discretion think fit.

4 The Goods and/or Services

The quantity and description of the Goods and/or Services shall be as set out in ACT's quotation.

- 4.1 The Goods and/or Services shall be manufactured and supplied in accordance with the description contained in ACT's specification
- 4.2 ACT may from time to time make changes in the specification of the Goods and/or Services which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods and/or Services.

5 Warranties and liability

ACT warrants that the Goods and/or Services will at the time of delivery materially correspond to the description given by ACT. Except where the Customer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the Goods and/or Services and whether implied by statute or common law or otherwise are excluded.

6 Delivery of the Goods and/or Services

Delivery of the Goods and/or Services shall be made to the Customer's address on the Delivery Date. The Customer shall make all arrangements necessary to take delivery of the Goods and/or Services whenever they are tendered for delivery.

7 Acceptance of the Goods and/or Services

- 7.1 The Customer shall be deemed to have accepted Goods and/or Services 24 hours after delivery to the Customer.
- 7.2 After acceptance the Customer shall not be entitled to reject Goods and/or Services, which are not in accordance with the contract.

8 Title and risk

- 8.1 Title shall **not** pass on delivery of the Goods and/or Services.
- 8.2 Risk shall pass on delivery of the Goods and/or Services.
- 8.3 Copyright in software produced by ACT shall belong to ACT notwithstanding delivery and/or payment of the Price

9 Remedies of Customer

- 9.1 Where the Customer rejects any Goods and/or Services then the Customer shall have no further rights whatever in respect of the supply to the Customer of such Goods and/or Services or the failure by ACT to supply Goods and/or Services which conform to the contract.
- 9.2 Where the Customer accepts or has been deemed to have accepted any Goods and/or Services then ACT shall have no liability whatever to the Customer in respect of those Goods and/or Services.
- 9.3 ACT shall not be liable to the Customer for late delivery or short delivery of the Goods and/or Services.
- 9.4 ACT shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by ACT of the contract with the Customer and/or these Conditions
- 9.5 In the event of any breach of the contract with the Customer and/or these Conditions by ACT the remedies of the Customer shall be limited to damages. Under no circumstances shall the liability of ACT exceed the Price of the Goods and/or Services.
- 9.6 The Goods and/or Services shall be at the Customer's risk as from delivery.
- 9.7 In spite of delivery having been made property in the Goods and/or Services shall not pass from ACT until:
 - 9.7.1 the Customer shall have paid the Price plus VAT in full; and
 - 9.7.2 no other sums whatever shall be due from the Customer to ACT.
- 9.8 Until property in the Goods and/or Services passes to the Customer in accordance with clause 9.7 the Customer shall hold the Goods and/or Services and each of them on a fiduciary basis as bailee for ACT. The Customer shall store the Goods and/or Services (at no cost to ACT) separately from all other Goods and/or Services in its possession and marked in such a way that they are clearly identified as ACT's property.
- 9.9 Notwithstanding that the Goods and/or Services (or any of them) remain the property of ACT the Customer may sell or use the Goods and/or Services in the ordinary course of the Customer's business at full market value for the account of ACT. Any such sale or dealing shall be a sale or use of ACT's property by the Customer on the Customer's own behalf and the Customer shall deal as principal when making such sales or dealings. Until property in the Goods and/or Services passes from ACT the entire proceeds of sale or otherwise of the Goods and/or Services shall be held in trust for ACT and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as ACT's money.
- 9.10 ACT shall be entitled to recover the Price (plus VAT) notwithstanding that property in any of the Goods and/or Services has not passed from ACT.
- 9.11 Until such time as property in the Goods and/or Services passes from ACT the Customer shall upon request deliver up such of the Goods and/or Services as have not ceased to be in existence or resold to ACT. If the Customer fails to do so ACT may enter upon any premises owned occupied or controlled by the Customer where the Goods and/or Services are situated and repossess the Goods and/or Services. On the making of such request the rights of the Customer under clause 9.9 shall cease.
- 9.12 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods and/or Services which are the property of ACT. Without prejudice to the other rights of ACT, if the Customer does so all sums whatever owing by the Customer to ACT shall forthwith become due and payable.
- 9.13 The Customer shall insure and keep insured the Goods and/or Services to the full Price against 'all risks' to the reasonable satisfaction of ACT until the date that property in the Goods and/or Services passes from ACT, and shall whenever requested by ACT produce a copy of the policy of insurance. Without prejudice to the other rights of ACT, if the Customer fails to do so all sums whatever owing by the Customer to ACT shall forthwith become due and payable.
- 9.14 The Customer shall promptly deliver the prescribed particulars of this contract to the Registrar in accordance with the Companies Act 1985 Part XII as amended. Without prejudice to the other rights of ACT, if the Customer fails to do so all sums whatever owing by the Customer to ACT shall forthwith become due and payable. The Customer may not withhold payment of any invoice or other amount due to ACT by reason of any right of set-off or counterclaim which the Customer may have or allege to have or for any reason whatever.

10 Proper law of contract

This contract is subject to the law of England and Wales. Neither party shall be liable for any default due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of either party.

ACT may cancel the contract with the Customer at any time before the Goods and/or Services are delivered by giving written notice. On giving such notice ACT shall promptly repay to the Customer any sums paid in respect of the Price. ACT shall not be liable for any loss or damage whatever arising from such cancellation.