

STANDARD TERMS AND CONDITIONS

In these conditions "Black Cat" is Black Cat Interactive Systems Limited having its registered office at: Diamond House 149 Frimley Rd Camberley GU15 2PS
"Purchaser" is an individual or company with whom Black Cat contracts.

1) PURCHASERS ORDER

These conditions shall prevail over any terms or conditions which the Purchaser may seek or have sought to impose. Any conditions in the Purchaser's Order will be binding only so far as they are compatible with these Conditions and are expressly accepted by Black Cat in writing. The purchaser understands and agrees that future orders are subject to Altairs current terms and conditions. Each order shall only be deemed to have been accepted by Black Cat if written notification has been given to that effect by an authorised representative of Black Cat to the purchaser.

2) ERRORS

Clerical errors may be corrected by Black Cat at any time.

3) PRICES

The prices quoted are Ex Works and exclude Value Added Tax. Any published list price shall be subject to revision without notice according to Black Cat prices ruling at the time of delivery.

4) SETTLEMENT TERMS

Punctual payment is the essence of the Contract and the Purchaser will pay interest at the rate of 2% per month or part thereof on any overdue payments. Provided that the Purchaser has produced references which in Black Cat's opinion are satisfactory Settlement Terms will be net 30 days from delivery. In all other cases payment shall be in advance upon submission by Black Cat of a pro-forma invoice.

5) DELIVERY

All times quoted for delivery are from receipt from the Purchaser of a written order to proceed, unless otherwise agreed in writing any quoted delivery dated shall only be an estimate thereof and shall not be the essence of the Contract. Whilst all reasonable endeavours will be made to comply with estimated delivery dates Black Cat does not accept any liability in respect of failure or delay in delivery. Where a Purchaser's Order calls for a number of items Black Cat reserves the right to deliver all or any as soon as they are available at Black Cat premises and the Purchaser shall honour all statements presented in respect of such deliveries in accordance with the Settlement Terms. Notification to the Purchaser by Black Cat that the goods are available for delivery to an independent carrier or to the Purchaser or his agent shall constitute delivery to the Purchaser. The method of packing, delivery and (if applicable) installation and fitting of the goods shall be at the sole and absolute discretion of Black Cat. In all cases the carrier acts as Agent of the Purchaser. If the Purchaser fails to give adequate delivery instructions then without prejudice to any right or remedy available to Black Cat, Black Cat may store the goods until actual delivery thereof and charge the Purchaser for all reasonable costs of storage (including insurance).

6) EXPORT CONTROL

If the goods or components thereof are licensed by the U.S. Government for ultimate destination within the United Kingdom or any other E.E.C. country then the goods may not be re-exported without the approval of Black Cat in writing.

7) FORCE MAJEURE

Black Cat shall not be liable for failure to perform or delay in performance of any contract or for the loss or damage to goods directly or indirectly caused by force majeure to include acts of god, fire, theft, riot, war, embargo, strike, shortage of labour, delays in delivery material by suppliers, prohibition of export or import, confiscation or any other occurrences (whether or not of a similar nature to those specified) beyond the control of Black Cat. No consequences of any such event shall give rise to the recession of the Contract unless in the opinion of Black Cat the contract becomes incapable of performances.

8) INSPECTION AND ACCEPTANCE

Upon acceptance of the goods the Purchaser shall be deemed to acknowledge that the goods accepted conform in all respect with the specification of the goods ordered. If the Purchaser desires to inspect the goods prior to delivery such inspection must be made at Black Cat's premises and notification of this requirement must be given in writing at the time of placing the order. If upon inspection the goods are approved by or on behalf of the Purchaser such approval shall constitute acceptance of the goods. If no such inspection is made the Purchaser shall be deemed to have accepted the goods when they are delivered to him or his agent or carrier unless the Purchaser gives notice to the contrary to Black Cat within five working days of delivery.

9) PASSING OF PROPERTY

The goods shall remain the sole and absolute property of Black Cat as legal and equitable owner until such times as the Purchaser shall have paid to Black Cat the full price for the goods and (if applicable) services by way of cash or cleared funds. From delivery of the goods the purchaser acknowledges that he is in possession of the goods solely as bailee for Black Cat and shall be bailee insure and keep the same insured in the name of Black Cat in their full reinstatement value in some reputable purpose of recovering its goods Black Cat may enter any premises where the goods are stored or where they are reasonably thought to be stored and may repossess the same. Until such time as the Purchaser becomes the owner of the goods he will store them on his premises in a manner which makes them readily identifiable as the goods of Black Cat.

The Purchaser is licensed by Black Cat to agree to sell Black Cat's goods subject to the express conditions that 80% of the proceeds thereof are held in trust for Black Cat and are not mingled with other monies or paid into any overdrawn bank account and shall be at any times identifiable as Altairs monies. The Purchaser is licensed to use the goods in the manufacture of other goods in the manufacture of other goods provided that if the goods being the property of Black Cat are mixed with goods being the property of the Purchaser or are processed with or incorporated therein the product shall be deemed to be the sole and exclusive property of Black Cat.

If the goods being the property of Black Cat are mixed with goods being the property of any other person other than the Purchaser or incorporated therein the product thereof shall become or shall be deemed to be owned in common with that other person in proportion to the value of the constituent parts therein. The Purchaser is licensed by Black Cat to agree to sell on the said product subject to the express condition herein before mentioned in relation to the proceeds of sale thereof.

10) SPECIFICATION

All drawings specifications and particulars of the goods submitted are approximate only. The description and illustrations contained in catalogues, price lists and other advertising of Black Cat are intended merely to present a general idea of the goods described therein and shall not form part of the Contract. Whilst every effort is made to ensure that the latest specification is available, Black Cat reserves the right to incorporate new features and to supply products which may not be strictly in accordance with the specification agreed upon, provided that any changes in specifications shall not materially prejudice the performance of the goods.

11) CANCELLATION OF ORDERS

If at any time the Purchaser cancels an order for goods or services Black Cat shall be entitled to claim as damages an amount equal to 75% of the value of the order. If a written cancellation has been received by Black Cat more than 45 days prior to the acknowledged delivery date these damages shall be limited to 50% of the value of the order. If written cancellation has been received by Black Cat more than 120 days prior to the acknowledged delivery date these damages shall be limited to 10% of the value of the order. These amounts the Purchaser agrees represent a genuine pre-estimate of Black Cat's loss. Upon the cancellation of any order, Black Cat shall have the right to release at its discretion after 60 days monies, securities or goods pledged with or held by its on behalf of the Purchaser and to apply the proceeds in or towards the satisfaction of such claim for damages and the purchase shall have no claim whatsoever against Black Cat in connection herewith.

12) WARRANTY

a) Black Cat warrants that the goods will be of good quality and that Black Cat has title to sell the same. Black Cat's warranty of workmanship (if provided) shall be effective from the date on which the goods were accepted in accordance with Clause 8 and limited to 90 days from despatch or such period as may be notified in writing by Black Cat to the Purchaser upon acceptance of the Purchaser's order ("the warranty period"). During the warranty period Black Cat will replace free of charge, any part or parts of the goods which fail to function as a result of faults caused during their manufacture provided always that such faulty goods are returned carriage paid to Black Cat's premises. The goods when repaired or replaced by Black Cat will then be returned carriage paid to the Purchaser. Black Cat shall not be liable under this warranty:-

i) where the defect results from the goods being subject to abnormal usage or where the defect is due to the act, neglect or default of anyone other than Black Cat.

ii) for the replacement or repair of the goods or part thereof where such replacement or repair becomes impossible as a result of force majeure or any other circumstances beyond Black Cat's control.

iii) where the goods or any component parts thereof are the subject of a separate guarantee given by a Third Party.

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

c) Save in respect of death or personal injury caused by Black Cat's negligence and within the constraints of the Consumer Protection Act 1987, Black Cat shall not be liable to the Purchaser by reason or any representation or any implied warranty condition or other terms or any duty at Common Law under the express terms of the Contract for any consequential loss or damage whether for loss of profit or otherwise, costs expenses or their claims for consequential compensation whatsoever (and whether caused by the negligence of Black Cat's employees or agents otherwise) which arise out or in connection with the supply of the goods or their resale by the Purchaser or their performance of the services except as expressly provided in these Terms and Conditions.

d) The Purchaser hereby expressly agrees and acknowledges that the limitations of the liability of Black Cat contained within this Clause are reasonable taking into account all relevant circumstances such as the relative bargaining positions of the parties hereto.

13) LEGAL CONSTRUCTION

Except where otherwise stipulated in writing the relations, arrangements and agreements between the parties shall be governed by the laws of England and all disputes which may arise under out of or in connection with any contract between Black Cat and the Purchaser shall be submitted to arbitration by the London Court of Arbitration in accordance with its Rules for the time being in force. Service of any notice in the course of such arbitration to the address of the purchaser given in the Contract shall be valid and sufficient.

All references in the Terms and Conditions to the masculine gender shall be deemed to include the feminine and neuter genders. Failure or neglect by Black Cat to enforce at any time any of the provisions hereof shall not be construed a waiver of Black Cat's right nor in any way affect the validity of the whole or part of the Contract nor prejudice Black Cat's rights to take subsequent action.

The headings of the terms and conditions are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and Conditions of this Contract. In the event that any of these terms, conditions or provisions shall be determined invalid, unlawful or unenforceable it shall be severed from the remaining terms, conditions and provisions which shall be valid to the fullest extent permitted by law.

14) REPRESENTATIONS

"No agent of either party has authority to make oral representations prior to or after placing an order and the Purchaser has not relied upon any oral representations in placing an order nor has any agent or either party authority to vary or modify the Terms and Conditions herein which may only be varied or modified in writing by Black Cat".

15) STERLING PROTECTION

Any quoted or listed sterling prices are subject to variation in the rate of exchange between sterling and the currency paid by Black Cat for whole or major components between the date of the Contract and the time of submissions of Black Cat's invoice to the Purchaser. Black Cat reserves the right to vary the price so that it accords with the said rate of exchange prevailing at the time of Black Cat's invoice.

16) DEFAULT

If the Purchaser shall default in the performance under any of its obligations under the Contract, Black Cat shall on giving the Purchaser notice in writing have the right without prejudice to any other rights or remedies to take all or any of the following actions:-

a) cancel all or part of any discount which might otherwise have been due under the terms of the Contract

b) suspend any outstanding delivery of goods or part thereof until such default shall have been good

c) recover possession of that part of the goods to which the default relates and the Purchaser shall allow Black Cat free access to his premises to enable Black Cat to do so. No waiver or delay in exercise by Black Cat of its right under this clause shall be deemed to imply acceptance of the default or any subsequent default.

If the Purchaser shall become bankrupt, go into liquidation, have a Receiving Order made Against him or carry on his business under a Receiver, Black Cat shall have the liberty without prejudice to any further remedies under the Contract to terminate the Contract forthwith by notice in writing to the Purchaser or Liquidation and recover possession of all equipment for which full payment of the Contract price has not been received as in c) above.