

## Terms and Conditions

### 1. INTERPRETATION

1.1 In these Conditions unless the context otherwise permits:-

**"Authorised Representative"** means a person whose job title is that of Director or Managing Director or a person who holds the office of Director.

**"Consumer"** shall mean any natural person who in the contract with the Customer is acting for purposes that are not related to his trade, business or profession.

**"Customer"** means the person, firm, company, entity or organisation with whom IM contracts for the sale of the Products and/or supply of Service.

**"the Conditions/these Conditions"** means the standard terms and conditions of sale set out in this document or such replacement standard terms and conditions notified to Customer as are in force at the date of the Contract and which at that date appear on ATEC's web site at [www.atecassociates.com](http://www.atecassociates.com) and/or which are available on request at ATEC's principle trading address at 69 Burfield Road, Old Windsor, Berkshire, SL4 2LN, England

**"the Contract"** means any contract for the purchase and sale or other supply of Products and/or the supply of Services by ATEC to a customer.

**"Electronic Means"** means any electronic means including without limit on the Web, by EDI or XML.

**"ATEC"** means ATEC Associates Limited (registered in England number 4516925) with its registered office at 69 Burfield Road, Old Windsor, Berkshire, SL4 2LN.

**"Products"** means any Products (including, for the avoidance of doubt software and instalments of the Products or any parts of or for them) sold by ATEC to a customer.

**"Services"** means any services supplied by ATEC to the customer.

**"Special Order Products"** shall mean Products that are classified in ATEC's current comprehensive product listing as special order products or have been ordered specifically by Customer or configured to Customer's specifications.

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

1.3 The Conditions shall apply to sales of all Products including Special Order Products ordered for shipment to or within the UK mainland. ATEC reserves the right to apply supplemental or other terms for Products to be shipped by ATEC outside the UK mainland.

1.4 Without prejudice to the application of these Conditions additional and more detailed terms may apply for certain Products and suppliers including specific terms applicable to special prices offered by suppliers through ATEC ("Special Terms"). These Special Terms will be made available on ATEC's web site [www.atecassociates.com](http://www.atecassociates.com). The Special Terms may oblige the Customer to comply with certain requirements including but not limited to (i) the sale of the Products only to specifically named end-users; (ii) the disclosure of end-user information to ATEC and its suppliers for the purpose of end user verification; and (iii) the submission of copies of end-user invoices, end-user purchase orders or end-user shipping documents to ATEC and its suppliers. Subject to the Special Terms applicable for the individual suppliers and Products, non-compliance with Special Terms may entitle ATEC and/or its suppliers to reclaim and invoice the Customer in full for all discounts, rebates and other special price conditions granted to the Customer under the Special Terms as current from time to time. By ordering Products at special prices offered through ATEC the Customer agrees to be bound by the applicable Special Terms.

### 2. BASIS OF THE SALE

2.1 All Contracts between ATEC and a Customer shall be governed by these Conditions (and, where applicable, any other terms and conditions pursuant to Clause 1.3 and/or Clause 1.4) to the exclusion of any other terms and conditions not accepted in writing by an Authorised Representative of ATEC, including without limit any terms on or referred to in any Customer purchase order. In the case of orders placed by Electronic Means which refer to any terms and conditions and an offer to supply the Products ordered on the basis of these Conditions. No variation to these Conditions shall be binding unless agreed by letter signed by and Authorised Representative of ATEC. It is the Customer's responsibility to be aware of the Conditions as current from time to time but ATEC will use best efforts to notify Customer of any material changes to the Conditions before they become applicable. In addition to any acceptance of these Conditions by signing ATEC's account application form, the Customer's acceptance of these Conditions shall be made (in respect of the first Contract and all subsequent Contracts) either by (1) Customer providing a purchase order to ATEC or (2) Customer accepting Products or Services from ATEC, whichever occurs first.

2.2 No employee or agent of ATEC other than an Authorised Representative has any authority to make any representation at all concerning Products or Services and an Authorised Representative has no authority to make such representation other than by letter (an "authorised representation") and accordingly Customer agrees that in entering into any Contract it does not rely on any unauthorised representation and Customer agrees it shall have no remedy in respect of any unauthorised representation (unless made fraudulently).

### 3. CUSTOMER IDENTIFICATION

- 3.1 In placing an order including by Electronic Means Customer may utilise one or a combination of account name, account number and other forms of identification including password or other code issued to Customer (together and individually "Customer's Identification" or "Customer Identification")
- 3.2 It is the Customer's responsibility to keep the Customer's Identification confidential. Customer has the sole responsibility for its Customer Identification. Customers shall immediately inform ATEC in case of loss of password or in case of any abuse or attempted abuse of Customer password or other Customer Identification. Customer agrees that Customer is entirely responsible for use of Customer's Identification and that it is Customer's responsibility to have in place security measures and procedures to ensure use of its Customer Identification only by authorised personnel for authorised purposes.
- 3.3 Customer agrees that ATEC is entitled to reply absolutely on any orders placed on ATC which have utilised Customer's Identification and to deliver as directed by such orders and to invoice and be paid in respect of such orders.
- 3.4 Customer agrees that any order placed on ATEC including by Electronic Means mentioning or utilising Customer's Identification is a valid and binding purchase order.
- 3.5 Customer acknowledges that ATEC cannot guarantee the security of the Internet and the possibility of interception or corruption of data transmitted from Customer to ATEC using correct Customer Identification, and that ATEC is nonetheless entitled to reply on data transmitted in the form it is received at ATEC.

### 4. ATEC INFORMATION

- 4.1 All product pricing, description, availability and related information ("Information") provided by ATEC, in any form, is the property of ATEC or its suppliers. ATEC hereby grants Customer a limited, non-exclusive, non-transferable license to use the Information for its internal use only for the purpose of Customer's purchases and sales of Products sold by ATEC to it. ATEC shall be entitled to stop the provision of Information at any time without notice. Customer agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the Information for any purpose except as permitted herein. ATEC makes no warranty, either express or implied on the Information or its accuracy. All Information is provided to Customer "as is". If ATEC provides Information to Customer by Electronic means, Customer agrees to update such Information regularly to ensure its accuracy. Customer agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the Information or utilise the Information for any purpose except as permitted herein. Specifically but without limitation Customer is not entitled to utilise Information for any purpose other than in the normal course of business of a reseller and is not entitled to use, reproduce or display the Information in any way, which in ATEC's opinion; (1) would enable it to be identified as information obtained from ATEC (2) would enable comparison of the Information with other suppliers' information relating to products or (3) could be damaging to ATEC's business interests.
- 4.2 ATEC agrees to hold in confidence and not directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any Customer sensitive information or utilise such information for any purpose if Customer has notified ATEC in writing that is confidential.

### 5. ORDERS AND SPECIFICATIONS

- 5.1 The customer shall be responsible to ATEC for ensuring the accuracy of the terms of any purchase order.
- 5.2 ATEC reserves the right to make any changes to the Contract due to changes in the specification of the Products which are required to conform with any applicable safety or other statutory requirements. These changes will be duly notified to the Customer. The Customer cannot cancel or reschedule the Contract provided the changes do not alter the material terms of the Contract. For other types of changes, the possibility of cancellation will be subject to ATEC's discretion and conditions.
- 5.3 ATEC is under no obligation to accept the withdrawal of an order or the cancellation of a Contract which has been accepted by ATEC. If ATEC agrees to accept the Customer's withdrawal of any order or the cancellation of a Contract such agreement will only be effected by means of letter, fax or email signed or sent by an Authorised Representative of ATEC.
- 5.4 Notwithstanding any other terms of these Conditions it is agreed that the provision or display of Product pricing and other Information (as defined in Clause 4.1) by ATEC to Customer does not amount to an offer by ATEC to sell Product at that price or on any other terms. Supply of such Information is only invitation to treat. An order by the Customer for Product or Services shall be the offer.
- 5.5 In the case of orders placed by Electronic Means only, notwithstanding any acceptance by ATEC of any offer for any Product, if there has been a material or obvious pricing error by ATEC, ATEC shall be entitled within 30 days of its acceptance of such offer to either invoice the Customer for the Customer's true list price (not exceeding the prevailing market price wholesale level) of the Product at the date of order or, if the Customer shall prefer, collect the Product at ATEC's expense and credit the Customer for any charges (e.g. price and freight) invoiced by ATEC.
- 5.6 Orders for direct shipment to Customer's customers or Special Order Products may require prepayment and will be subject to additional fees.

- 5.7 ATEC will set minimum order levels and charge additional fees for any order below such levels. Current minimum order levels can be found on ATEC's web site [www.atecassociates.com](http://www.atecassociates.com).

## 6. PRICE OF THE PRODUCTS

- 6.1 Subject to the provisions of Clause 5.5 and Clause 6.2:-
- 6.1.1 prices for Products in ATEC's stock ready to be shipped will be established at the time the order is accepted by ATEC;
- 6.1.2 if the Customer places an order for Products not in stock at the time of order (a "Backorder") or the Customer places an order for scheduled delivery, such orders shall be irrevocable and the price for such Products shall be the price established at the time the Backorder or scheduled delivery is accepted by ATEC
- 6.2 Notwithstanding any of the foregoing ATEC reserves the right to increase its prices after acceptance of an order due to an increase in its supplier's price to ATEC or an increase in direct costs to which ATEC becomes subject (including without limit costs resulting from currency fluctuation) but ATEC shall only increase its price by such level as is necessary to reflect such increases.
- 6.3 All prices exclude the cost of the delivery from ATEC's warehouse to the Customer's delivery point, configuration, fulfilment and other services provided by ATEC.
- 6.4 All prices and charges are exclusive of any applicable Value Added Tax, which the Customer will be additional liable to pay ATEC. Unless otherwise stated prices exclude any copyright levies, waste and environmental fees, and similar charges that ATEC by law or statute may or shall charge or collect upon resale.
- 6.5 If Customer is offered special pricing for certain orders and such pricing is made available to ATEC from its suppliers ("Special Bids"), the customer shall adhere to the terms and conditions of such Special Bids and agrees to indemnify ATEC for any claims made against ATEC by the supplier driven benefits the Customer may receive, including any marketing funding, price protection and individual rebates, and agrees that pass-through and payment of such benefits will be subject to ATEC having received the benefits from its supplier.

## 7. TERMS OF PAYMENT

- 7.1 Unless ATEC shall have previously agreed in writing with the Customer that the Products shall be supplied on credit, payment for the Products shall be made in full by the Customer with the Customer's order or on delivery or collection of the Products as determined by ATEC. If payment is made by credit or debit card the Customer agrees to pay all fees and services charges incurred by ATEC for the handling of such transaction including fees charged by the card company to ATEC.
- 7.2 Where ATEC has agreed to supply the Products on credit Customer shall pay the price of the Products within 30 days of the date of ATEC's invoice notwithstanding that title to the Products has not passed to the Customer. Customer may take advantage of an early payment discount subject to meeting the conditions detailed on ATEC's web site [www.atecassociates.com](http://www.atecassociates.com). Customer shall not deduct or set off any other amount against the invoice as compensation for any payment made prior to the due date. Invoices will be dated of dispatch of the Products. ATEC shall be entitled at its absolute discretion to alter payment terms (other than on concluded Contracts) and withdraw or alter any credit limit granted at any time with notice. If Customer exceeds its credit limit or fails to qualify for continued credit terms, ATEC may, at its own discretion, delay subsequent shipments or require prepayment until ATEC determines that Customer is once again qualified to receive credit terms. Customer shall not set off or withhold any amount due to ATEC against its receivables without ATEC's prior written approval, and shall in the event of a bona fide dispute, pay any undisputed part of the invoice.
- 7.3 The time of payment shall be of the essence. If the Customer fails to make a payment on the due date then without prejudice to any other right or remedy available to it ATEC shall be entitled to:-
- 7.3.1 cancel the Contract or suspend any further deliveries or suspend any Services to the Customer; ATEC may at its discretion grant Customer a reasonable cure period before cancelling the Contract due to non-payment;
- 7.3.2 appropriate any payment made by the Customer to such of the Products as ATEC may think fit (notwithstanding any purported appropriation by the Customer);
- 7.3.3 charge the Customer interest (both before and after judgement) on the amount unpaid at the rate of 5% per annum above Barclays Bank plc base rate from time to time until payment in full is made such interest being calculated on a daily basis.
- 7.4 Customer shall provide ATEC's Credit Department with copies of its annual financial statements and its quarterly statements within sixty (60) days of the close of the fiscal period to which they relate. Customer shall inform ATEC promptly if there is change of ownership of the shares of a publicly quoted company which do not result in a change in control of the company's board of directors or other governing board), a management buy-out, or all or a substantial part of the Customer's assets are sold or otherwise transferred to any non-affiliated company or member of the Customer's group of companies.
- 7.5 In the event Customer intends to sell, assign, factor or otherwise transfer any book debt owed to Customer or to enter into any form of invoice discounting arrangement Customer agrees to inform ATEC in writing prior to entering into any such arrangements.
- 7.6 It is ATEC's policy not to accept cash as a method of payment for Products or Services.

- 7.7 If ATEC issues a credit note and the Customer does not utilise the credit note within a period of 12 months from the date of issue ATEC shall have the right to cancel the credit note and the Customer shall not be entitled to a replacement or any payment in respect of the same.
- 7.8 Any credit balance shown on a Customer's statement of account issued by ATEC which remains on the statement for a period of 12 months will be forfeited by the Customer who shall no longer have any rights to the same.

## 8. DELIVERY

- 8.1 Delivery of the Products shall be made by ATEC to such place as shall have been agreed between ATEC and the Customer. Unless the Customer shall have notified ATEC in writing within 5 working days of the date of the ATEC's invoice that the Products have not been delivered then delivery shall be deemed to have taken place in accordance with the Contract and the Customer shall not be entitled to raise any claim of short or mis-shipment.
- 8.2 ATEC shall be entitled to assume that any person who both reasonably appears and claims to have authority to accept delivery who signs a note in respect of the Products on behalf of the Customer or the Customer's customer (if ATEC has agreed to deliver direct) does in fact have the authority.
- 8.3 Any dates quoted for the delivery of Products are approximate only and ATEC shall not be liable for any delay in delivery of the Products howsoever caused.
- 8.4 Partial delivery is allowed unless otherwise mutually agreed by both parties. Failure by ATEC to deliver the rest of the Products shall not entitle the Customer to treat the order as a whole as repudiated.
- 8.5 For the purpose of these Conditions where ATEC has agreed to deliver Products direct to the Customer's customer any such delivery shall be deemed to be delivery to the Customer and any refusal by the Customer's customer to accept delivery shall be deemed to be refusal by the Customer.
- 8.6 The Customer shall bear all costs associated with the unjustified refusal of delivery of Products. If the refusal is made on the grounds that the order was wrongly placed (i.e. wrong product, wrong pricing, etc) and the refusal is accepted by ATEC, ATEC reserves the right to charge accordingly additional fees for return transportation and administrative expenses related thereto, and original carriage costs will not be reimbursed.

## 9. RISK AND TITLE

- 9.1 Risk of damages to or loss of Products shall pass to the Customer at the time of delivery or if the Customer unjustifiably fails to take delivery of Products the time when ATEC has tendered delivery of the Products.
- 9.2 Notwithstanding delivery and the passing of risk of the Products or any other provisions of these Conditions, title to the Products shall not pass to the Customer until when ATEC has received in cleared funds payment in full of:-
  - 9.2.1 the products; and
  - 9.2.2 all other sums which are or which become due to ATEC from the Customer on any account.
- 9.3 Until such time as title to the Products passes to the Customer the Customer shall:-
  - 9.3.1 hold the Products as ATEC fiduciary agent and bailee; and
  - 9.3.2 keep the Products separate to those of the Customer and third parties; and
  - 9.3.3 keep the Products properly stored protected and insured, and identified as ATEC's property; and
  - 9.3.4 accept that Products may be labelled as being ATEC's property until ATEC is paid.
- 9.4 Until such time as the title in the Products passes to the Customer (and provided the Products are still in existence and have not been resold) ATEC shall be entitled at any time to require the Customer to deliver up the Products to ATEC and if the Customer fails to do so forthwith to enter upon any premises of the Customer or any third party where the Products are stored and repossess the Products.
- 9.5 The Customer's right to possession of the Products shall terminate immediately if:-
  - 9.5.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
  - 9.5.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or falls to observe/performance any of his/its obligations under Contract or any other Contract between ATEC and the Customer or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
  - 9.5.3 the Customer encumbers or in any way charges any of the Products.

- 9.6 Customer is entitled to resell the Products in the ordinary course of business. Customer is not able or entitled to offer the Products as collateral or otherwise grant a charge in respect of the Products until title has passed to the Customer in accordance with these Conditions. Customers shall inform its customers that title to the Products is retained by ATEC until Customer has paid ATEC, and shall ensure that its customer has agreed with the Customer that any unpaid Products shall be returned to ATEC in the event of Customer's failure to pay ATEC's invoices when they fall due. The Customer shall upon ATEC's request provide ATEC with all details and information necessary for ATEC to collect the Products.

## 10. WARRANTIES AND LIABILITY

- 10.1 ATEC does not manufacture the Products (or where the Products comprise computer software does not publish or license the software) and subject to the conditions set out below in this Clause 10 ATEC only sells the Products with the benefit of the manufacturer's or publisher's or licensor's ("publishers") warranty (as the case may be)
- 10.2
- 10.2.1 ATEC will accept liability for defective Products only to the extent that ATEC is entitled to make a claim under the manufacturer's or publisher's, Dead on Arrival, warranty or other defective goods terms and actually obtains from the manufacturer or publisher a refund credit repair or replacement in respect of the defective Products. Processing of these defective Products shall be made in according to the manufacturer's procedure and the instructions set out in Clause 10.4 below. ATEC cannot and shall have no obligation to accept a return of and/or grant a credit for Product not compliant with the manufacturer's procedures.
- 10.2.2 ATEC 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 ATEC's or the manufacturer's or publisher's instructions (whether oral or in writing) misuse or alteration or repair of the Products without ATEC's approval
- 10.2.3 ATEC shall be under no liability under the above warranty if the total price of the Products has not been paid.
- 10.3 All warranties, conditions or other terms implied by common law or statute or otherwise in connection with the sale or supply of goods or goods or services (save, in the case of goods, as to title) are excluded to the fullest extent permitted by law.
- 10.4 Any claim by the Customer which is based on a defect in the quality or condition of the Products shall be notified to ATEC's Customer Services Department. Upon notification of any such claim by the Customer ATEC shall either notify the Customer whether the policy of the manufacturer of the Products is to deal with the Customer direct (in which case the Customer shall deal with the manufacturer direct provided ATEC gives sufficient details to enable the Customer so to do) or shall provide the Customer with an RMA number (in which case the Customer shall return the Products to ATEC in their original UNMARKED packaging together with details of the RMA number and the Customer's name and address). If ATEC issues an RMA number to the Customer ATEC shall not send any replacement Products to the Customer until after the original Product has been returned to ATEC. This Clause 10.4 shall only apply to Products the Customer is entitled to return to ATEC as provided in these conditions.
- 10.5 ATEC shall not be liable to the Customer for any economic or financial loss or damage (including without limit any loss of profits, loss of revenue, liabilities incurred by the Customer to third parties relating to Products delivered or Services rendered by ATEC, or additional expenses incurred or the cost of time spent) or any consequent, indirect, or special loss or damage costs expenses or other claims for consequential compensation whatsoever (including without limit loss of damage to data or loss of goodwill) incurred or suffered by the Customer and in every case howsoever caused or arising (and whether caused by the negligence of ATEC its employees or agents otherwise).
- 10.6 ATEC's liability for direct loss or damage arising from damage to tangible property for which ATEC is liable shall be limited to the VAT exclusive price of the relevant Product or Service in connection with which any claim for damage or loss is made.
- 10.7 Nothing in these Conditions shall in any way exclude or limit any liability Atec may have for death or personal injury caused by its negligence.
- 10.8 ATEC shall not be liable to the Customer or be deemed to be in breach of any Contract by reason of any delay in performing or any failure to perform any of ATEC's obligation in relation to the Products or Services if the delay or failure was due to any cause beyond ATEC's reasonable control. Without Prejudice to the generally of the foregoing the following shall be regarded as causes beyond ATEC's reasonable control:-
- 10.8.1 Act of God explosion, flood, tempest fire or accident;
- 10.8.2 Act of terrorism war or threat sabotage insurrection civil disturbance or requisition.
- 10.8.3 Acts restrictions regulations bye-laws prohibitions or measures of any kind on the part of any governmental or parliamentary or local authority;
- 10.8.4 Import or export regulations or embargoes;
- 10.8.5 Strikes lock outs or other industrial actions or trade disputes (whether involving employees of ATEC or a third party);
- 10.8.6 Difficulties of ATEC'S supplier in obtaining raw materials labour fuel parts or machinery.

- 10.9 If Customer is selling Products or Services purchased from ATEC to a consumer the Customer shall ensure the Consumer is given sufficient and appropriate information and description as to the product's or services fitness for the purpose for which the Products or Services are normally used and any particular purpose the Consumer had required or agreed with the Customer. Customer shall not remove or replace any labelling, user manuals, components or other material from the product as supplied by the manufacturer or ATEC, and shall not in its advertising, marketing or labelling provide any public statements on the specific characteristic of the Products or Services on behalf of ATEC, the manufacturer or their representatives.
- 10.10 Customer accepts liability for the Products' conformity with the Customer's Consumer contract ('conformity' as defined by the EU Directive 1999/44/CE of May 25, 1999 and legislation implementing the directive), and Customer shall not offer any warranties or representations to the Consumer as to the quality, fitness for purpose of the Products without the manufacturers' express consent. Customer agrees to hold harmless and indemnify ATEC and the manufacturers against any loss, cost, and damages caused by the Customer's acts or omissions, and non-compliance with the obligations set forth in Clause 10.9, Clause 10.10 and Clause 10.11. If Customer is held liable to the Consumer caused by a Product's lack of conformity resulting from an act or omission by the manufacturer or ATEC, or any other intermediary, Customer may by law or statute be entitled to pursue remedies against ATEC, the manufacturer or any other person liable in the contractual chain. Provided Customer is legally entitled to pursue such remedies and ATEC is held liable by a competent court of law, ATEC's liability to Customer shall be limited to an amount corresponding to the Customers' original purchase price of the Product or Service giving rise to the claim by the Consumer.
- 10.11 Should the Product warranties offered by the manufacturers or ATEC under these Conditions be restricted compared to the guarantees the Consumer is entitled to under law, the Customer agrees to take sole responsibility towards the Consumer for the excess liability and waives any claim it may have against ATEC in respect of such excess.
- 10.12 The Products are subject to the intellectual property rights of ATEC's suppliers (i.e. the Product manufacturers). Customer is not authorised to alter, cover, or remove any reference to such intellectual property rights on the products, and shall adhere to any guidelines and restriction provided by ATEC's suppliers with respect to such rights. ATEC shall have no duty to defend, indemnify or hold Customer harmless from and against any or all claims brought Customer or damages and costs incurred by Customer arising from the infringement of a third party's intellectual property rights, except to the extent ATEC's supplier is offering such a defence or indemnification to ATEC on a pass through basis. Upon threat of claim or claim of infringement, ATEC may, at its option (i) procure the right to continue using any part of Product, (ii) replace infringing Product with a non-infringing Product of similar performance, or (iii) refund to the Buyer the purchase price paid by the Buyer for the infringement of intellectual property rights under these Conditions shall not exceed the Customer's purchase price for the infringing Products.

## 11. RETURNS AND REPAIRS

- 11.1 Except for Special Order Product, which are expressly excluded from the terms of this Clause 11 and cannot be returned under any circumstances, if ATEC agrees to accept the return of any Products (other than for the purpose set out in Clause 10 above) or agrees to carry out the repairs to other products which have not been purchased from ATEC or agrees to repair Products which are out of warranty the Customer shall not send the same to ATEC unless they are accompanied by an RMA number previously advised by ATEC's customer services department and a copy of the relevant sales invoice and are sent in their original packaging.
- 11.2 The Customer shall notify ATEC within 5 working days of any delivery discrepancies, other than for the purpose set out in Clause 10. If ATEC issues a returns number (RMA), Products must be returned to ATEC within 5 working days of the date thereof.
- 11.3 If ATEC has agreed to carry out repairs or to replace Products (or any parts thereof), other than for the purpose set out in Clause 10 above the Customer irrevocably authorises ATEC to carry out such repairs or provide such replacements as shall place the Products in proper working order.
- 11.4 ATEC shall accept no liability for any damage to or loss in transit of Products returned to ATEC whether under this Clause or under Clause 10 above unless ATEC collects the Products using its own carrier.
- 11.5 If ATEC has agreed to accept the return of Products, other than for the purposes set out in Clause 10 above or for the purpose of carrying out any other repair or replacement, the Products must be returned in their original packaging and in clean resalable condition, and will be subject to a re-stocking fee at ATEC's discretion, failing which ATEC will refuse to accept the same and the Customer shall remain liable for the price thereof.
- 11.6 Details of ATEC's returns process and terms can be found on [www.atecassociates.com](http://www.atecassociates.com) and Customer agrees to comply with this process and abide to the terms when returning any products to ATEC.

## 12. INSOLVENCY OF CUSTOMER

- 12.1 If:-
- 12.1.1 the Customer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation otherwise than for the purposes of a solvent amalgamation or solvent reconstruction.
- 12.1.2 An encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer; or
- 12.1.3 The Customer ceases or threatens to cease carrying on business; or

12.1.4 ATEC reasonably apprehends that any of the events mentioned above is about to occur in relation to the customer and notifies the Customer accordingly;

Then upon the happening of any of the above, without prejudice to any other right or remedy available to ATEC, shall be entitled to cancel the Contract without any liability to the Customer and if the Products have been delivered and not paid for then the price shall become immediate due and payable notwithstanding any previous agreement or arrangement to the contrary.

### 13. EXPORT RESTRICTIONS

- 13.1 If Customer delivers the Products to its customers who may use the Products outside the United States or the European Union or EFTA countries, Customer acknowledges and shall advise its customer that some Products are controlled for export by the U.S. Department of Commerce or by EU/EFTA member state bodies and such Products may require authorisation prior to export. Customer agrees that it will not export, re-export, otherwise distribute Products, or direct products thereof, in violation of any export control laws or regulations of the United States or any EU/EFTA member state. Customer warrants that it will not export or re-export any Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless Customer has obtained prior approval from the U.S. Department of Commerce or any other competent government agency. Customer further warrants that it will not export or re-export, directly or indirectly, any Products to embargoed countries or sell Products to companies or individuals listed on the Denied Persons List published by the U.S. Department of Commerce.
- 13.2 These restrictions change from time to time. If the Customer has any questions regarding its obligations under USA export regulations the Customer should contact the Bureau of Export Administrations, United States Department of Commerce, Office of Export Licensing, Washington DC, USA.
- 13.3 Upon request the Customer agrees to confirm in writing its intention to comply with applicable export and restricted user and uses regulations, by signing up to the terms in ATEC's reseller application form.

### 14. CONFIGURATION AND OTHER SERVICES

- 14.1 If agreed in any particular case ATEC will provide configuration Services to Customer. Configuration services will be at the price agreed at the time the order is accepted. The customer shall be solely responsible for the accuracy of its order, the specification of the components and their configuration and for ensuring that the configured product specified is satisfactory for the purposes for which it is required including without limit that it has sufficient overall functionality, and will support, be compatible and inter-operable with any hardware, software or middleware with which it is intended to operate.
- 14.2 Configuration Services will have a warranty of 14 days from the date of shipment to the Customer. ATEC's sole liability (and the Customer's sole remedy against ATEC) in respect of any defective Services for which ATEC is responsible shall be the repair by ATEC or at ATEC's option replacement of the Product on which the Services have been performed. (If any alleged defect shall be attributable to defect in Product, the provisions of Clause 10 shall apply). Claims in respect of defective services must be made within 21 days of the date of delivery of the configured Product.
- 14.3 ATEC may offer other Services to Customer including direct fulfilment and billing, installation and support services, storage and consolidation, and other logistics services. Such Services will be provided under these Conditions in addition to specific terms agreed upon in writing with Customer.

### 15. MISCELLANEOUS

- 15.1 Customer is not allowed for any purpose whatsoever to use ATEC logos and trade marks without ATEC's prior written approval from an Authorised Representative
- 15.2 Customer agrees that ATEC may use Customer data, including any personal data, for the purpose of marketing and sales of Products and Customer agrees to ATEC's collection, storage and use of such data for this purpose. Personal data will not be shared with third parties without the Customer's consent. Customer agrees to receive Product information and promotions and other communications from ATEC by email and other communication tools.

### 16. CUSTOMER IDENTIFICATION

- 16.1 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 notice.
- 16.2 No waiver by ATEC of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 16.3 If any provision of these Conditions is held by any 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 provisions in question shall not be affected thereby.
- 16.4 The Contract shall be governed by the laws of England and the Customer submits to the exclusive jurisdiction of the English Courts.