

# RECORD DIGITAL LIMITED - TERMS AND CONDITIONS

## 1. EQUIPMENT AND SERVICES

Record Digital Limited will sell and the Client will purchase the equipment, systems and services described at the prices stated and upon the following terms and conditions.

## 2. TOTAL PRICE

- (a) Where appropriate, the total price, for the purpose of these conditions, shall be deemed to comprise:
- (i) The price of the equipment;
  - (ii) The cost of delivery of the equipment to the Clients premises (if included);
  - (iii) The cost of installation of the equipment in the Clients premises (if included);
  - (iv) The cost of any network installation (if included);
  - (v) The cost of the software;
  - (vi) The cost of any ancillary equipment or services included in the sale;
  - (vii) Value Added Tax at the rate ruling at the date and time of delivery. (Tax Point).
- (b) Record Digital Limited reserve the right to adjust the total price payable by the Client to take account of:
- (i) The imposition of new or additional taxes or duties or other similar costs;
  - (ii) The cost of conforming with any new or additional legal requirements prior to the delivery of the equipment and software to the Client.
  - (iii) Any correction of faults to the equipment and/or software which are directly or indirectly caused by the alteration or attempted alteration by the Client of existing programs or the installation by the Client of further programs.
- (c) The total price excludes all other equipment and services and specifically but without prejudice to the generality of the foregoing:
- (i) The cost of any special tackle or alterations to the Clients premises necessary for the installation of the equipment.
  - (ii) The cost of any engineering or any electrical work which may be required at the Clients premises to complete the installation of the equipment.
- (d) It should be noted that, unless stated otherwise, Record Digital Limited sales and marketing documents do not include Value Added Tax and delivery charges in advertised prices.

## 3. RISK

Risk in the equipment shall pass to the Client on delivery of the equipment to the Client's premises or on the expiry of fourteen days written notice by Record Digital Limited that they are ready to deliver the equipment to the Client whichever date is the earlier.

## 4. TITLE

- (a) Property in the equipment shall not pass to the Client until the total price payable under this agreement has been received by Record Digital Limited and the Client agrees not to permit or cause the equipment to be removed from its premises until such total price has been paid and the property in the equipment has passed to the Client.
- (b) Until payment of the total price has been made the Client shall be a bailee of the equipment and shall retain the same in a separate and identifiable form.
- (c) In the event of the sale of part or the whole of the equipment or the disposal of any interest therein, such proceeds of sale or disposal shall be held by the Client in trust for Record Digital Limited and shall be forthwith due and payable to Record Digital Limited in satisfaction of part or the whole of the total price.
- (d) Without prejudice to any other remedy available to Record Digital Limited at any time after the Client shall be in default of payment of the whole or part of the total price Record Digital Limited shall have the right to enter upon the premises of the Client or upon the premises in which the equipment is located at any time and without notice for the purpose of recovering the equipment.

## 5. ACCEPTANCE

Acceptance of the equipment shall be deemed to take place forthwith upon satisfactory installation of the equipment.

## 6. PAYMENT

- (a) Record Digital Limited accepts payment by Cheque and Cash. Where a cheque is proposed for payment above the limit of the appropriate bank guarantee card then a period of 5 working days must be allowed for clearance prior to any goods being shipped. Credit terms are made available, subject to status, and payment must then be received on a strict 7 day basis. A deposit of ten per cent of the total price together with VAT at the current rate thereon will be payable by the Client upon the acceptance of this agreement by Record Digital Limited as evidenced by the signature of a duly authorised person.
- (b) In some circumstances, a deposit of 25 per cent of the total price, as opposed to the standard deposit of 10%, together with VAT at the current rate thereon will be payable by the Client upon the acceptance of an order by Record Digital Limited. The balance of the total price including the VAT at the current rate thereon will either be payable by the Client within thirty days of acceptance of the equipment or on the expiry of thirty days written notice by Record Digital Limited to the Client that they are ready to deliver the equipment, whichever date is the earlier, or in accordance with a pre-agreed schedule based on installation and acceptance tests.
- (c) Where bespoke software is involved 30% of the Software Price shall become payable on completion of the detailed system specification. Following satisfactory installation of a suite of programs to the point of completion of systems tests by Record Digital Limited a further 30% of the software charges will become payable. The balance of 40% of software charges will become payable on satisfactory live processing of a working suite of programs. This may not necessarily constitute the complete system.
- (d) In the event of the Client requiring Record Digital Limited to suspend development of bespoke or modified software any costs or charges incurred to date shall become immediately due and payable in full.
- (e) Where any installment of the total price is not paid on the prescribed date or within the prescribed period Record Digital Limited may on giving written notice of their intention to the Client forthwith cease further work on the writing and supply of any relevant software.
- (f) The payment method must be agreed at the time of sale, but, Record Digital Limited will only charge credit cards on the day of shipping the order. Cheque payments will be banked and cleared at the time of receipt, but, funds will be held in trust on behalf of the client until the goods are shipped.

## 7. WARRANTY

- (a) Record Digital Limited warrant that they have the right to sell the equipment and software and that the equipment and software are of merchantable quality.

- (b) All Hardware products are subject to a manufacturers warranty and Record Digital Limited acts as a conduit for that warranty. If, for any reason, the manufacturers warranty becomes void, suspended or cancelled, Record Digital Limited has no express or implied liability for any additional warranty. All software carries a 30 day guarantee free from defect. Defective software media will be replaced immediately, defective hardware will be repaired or replaced at Record Digital Limited's discretion.
- (c) All software will be the latest version available to Record Digital Limited at the time of shipment.
- (d) Save as aforesaid, Record Digital Limited undertake no guarantee, condition or warranty and it is expressly agreed between the parties that the said warranty set out in paragraph 7(a) herein is given and accepted in substitution of any representation by whomsoever made on the part of Record Digital Limited prior to the purchase or any other guarantee, condition, or warranty implied by statute or otherwise and the Client agrees not to rely upon any such representation, guarantee, condition or warranty.

## 8. LIMITATION OF LIABILITY

- (a) Save for death or personal injury, Record Digital Limited shall not be liable to the Client for consequential loss, damage or injury of any kind howsoever caused.
- (b) The liability of Record Digital Limited to the Client whether in contract tort or otherwise for any breach of its obligations or liabilities under this agreement shall be limited to a maximum sum not exceeding the total price (exclusive of VAT) specified herein.

## 9. DELAYS

Record Digital Limited will use best endeavours to meet the date for delivery and/or installation of the equipment and software. No dates can be guaranteed and Record Digital Limited shall not be liable for any delay or the consequences of any delay.

## 10. VARIATIONS

This agreement shall represent the entire contract made between the parties hereto and any variation of this contract shall be made in writing and be executed by an authorised signatory of both parties and a copy of such signed memorandum shall be annexed to the order.

## 11. CANCELLATION BY THE CLIENT

The Client may terminate this agreement as a whole but not in part at any time before the date of delivery of the equipment by giving written notice to Record Digital Limited (hereinafter called the "Cancellation Notice"). In the event of Record Digital Limited receiving the Cancellation Notice, Record Digital Limited shall be entitled to retain any deposit paid. Any VAT adjustments necessary will be charged separately or (as the case may be) refunded to the Client.

## 12. RETURNS FROM THE CLIENT

Returns will only be accepted by Record Digital Limited if an RMA (Return Material Authorisation) number has been issued. If there is a need to return any goods to Record Digital Limited, subject to the conditions in 12(a), 12(b), 12(c) and 12(d), you should contact Record Digital Limited customer services to obtain the proper authorisation.

- (a) Record Digital Limited will not accept the return of any equipment or software from the Client after a period of sixty days (The Return Period) from the date and time of delivery.
- (b) During The Return Period, any goods and software proposed for return must be in a resalable condition with all the original packing and accessory kits available.
- (c) Any software proposed for return can only be considered if the proprietary seal made by the software publisher or distributor has not been broken and the software registration has not been completed. Record Digital Limited supports the aims and objectives of FAST. (Federation Against Software Theft).
- (d) Save for the conditions imposed in paragraphs 12(a), 12(b) and 12(c), Record Digital Limited will make a full refund against all Returns From The Client, except for delivery charges which are non refundable.

## 13. SUPPLEMENTAL PROVISIONS

- (a) This agreement shall be governed by English Law.
- (b) In this agreement the Client shall be deemed to be the person, company or firm to whose premises and for the purposes of whose business the equipment and software is or shall be supplied, whether or not the total price shall be paid by the Client or a third party.

## 14. TERMINATION

- (a) If the Client shall be in default in the performance of any obligation on his part under this or any other contract with Record Digital Limited or if a mortgagee, or receiver shall take possession of the whole or a substantial part of the undertaking of the Client or if the Client commits an act of bankruptcy or being a corporation becomes insolvent or enters into liquidation Record Digital Limited shall have the right (without prejudice to any other remedy) to cancel the contract and/or withhold delivery or services and/or stop any goods in transit and payment of the price of any equipment delivered shall become due.
- (b) Upon termination of this agreement:
- (i) Without prejudice to any other remedy available to Record Digital Limited in the event of part or the whole of the total price not having been paid by the Client, Record Digital Limited may proceed to recover the equipment from the Client pursuant to Clause 4(d) herein.
  - (ii) The Client will return to Record Digital Limited the software and all copies thereof or, if requested by Record Digital Limited, the will destroy all such software and certify in writing that the same has been destroyed.

## 15. DEFAULT

Upon default by Record Digital Limited to deliver to the Client the equipment and software within a reasonable period of time after the agreed delivery date and provided such delay is not caused by circumstances beyond the reasonable control of Record Digital Limited, any monies paid by the Client to Record Digital Limited for the equipment or software subject to non-delivery shall be refunded but subject thereto the Client shall have no further claim against Record Digital Limited.

## 16. DATA SECURITY RECOMMENDATION - CLIENT'S RESPONSIBILITY

As hardware failure may result in damage to or loss of software and data, Record Digital Limited strongly recommends it's clients to ensure that separate back-up copies of software are made, and, client data is copied and stored on a daily basis, (or more regularly if circumstances require), so as to minimise the risk of loss or damage. Record Digital Limited are not liable for any such loss or damage or expenses incurred as a result of such loss or damage