



Terms and Conditions

These general terms and conditions ("Terms and Conditions") apply to all offers quotations and sales of goods and/or services by Audio Related Technology Limited (A.R.T) to any purchaser or potential purchaser ("Buyer") If A.R.T. and Buyer have entered into a separate written contract relating to the sales of products, or the provision of services, inducing without limitation a reseller or distributor agreement these Terms and Conditions shall additionally apply to purchasers under the separate agreement to the extent they are not inconsistent with the terms of the separate agreement. Any agreement between A.R.T. and Buyer shall be binding only if and to the extent that an individual order is expressly accepted by A.R.T. in writing A.R.T. shall have full discretion in accepting or rejecting any order. Except as set forth in Condition 1.1 above. These Terms and Condition shall be exclusive of and prevail over all other terms or conditions, written or oral, implied by trade custom or course of dealing, wherever appearing or however introduced (including those in catalogues specifications or any Buyer general terms and conditions, request for quotation, order or confirmation) unless expressly otherwise agreed by A.R.T. in writing. All other terms or conditions are expressly rejected by A.R.T. Buyer agrees to be bound by these Terms and Conditions whether or not expressly so stated in any order, confirmation or otherwise. Each deviation from or modification of these Terms and Conditions requires the express written agreement of A.R.T. in each instance. Modification or waiver of any provision in one instance shall not constitute modification or waiver in any other instance. Buyer may not without A.R.T.'s prior written consent assign all or any of its rights under any contract incorporating these conditions.

Conditions No quotation of A.R.T. shall constitute an offer.

Specification Goods are supplied in accordance with A.R.T.'s standard specifications but A.R.T. reserves the right to make such improvements and modifications in such specifications without prior notice as it or its suppliers consider desirable in the circumstances, without obligation to modify or change any goods previously delivered or to supply new goods in accordance with earlier specifications, unless A.R.T. agrees otherwise in writing at the date of reservation of the goods. If A.R.T. or its suppliers wish to make any improvements or modifications to any goods to be supplied to Buyer that would affect form fit or function A.R.T. shall not implement such improvement or modification without the agreement of Buyer. If Buyer wishes to change the specification of any goods to be supplied by A.R.T. then A.R.T. shall not be obliged to agree to such change. If A.R.T. does agree to any proposed change requested by Buyer A.R.T. shall be entitled to adjust the price, delivery and warranty accordingly. All technical information and particulars of goods and performance given by A.R.T. are given as accurately as possible but are not to be treated as binding or as forming part of an contract with Buyer unless specifically confirmed or agreed by A.R.T. in writing.

Prices Prices are subject to alteration by A.R.T. at any time without prior notice. A.R.T. shall notify Buyer of any alteration in price, whereupon Buyer may cancel the contract (without liability to A.R.T.) by giving notice in writing to A.R.T. within 7 days. Buyer shall bear the cost of any applicable sales, value added, excise, or similar tax in relation to the goods unless Buyer provides A.R.T. with a tax exemption certificate or license acceptable to the taxing authorities before shipment.

Delivery The price to be paid for goods may or may not include delivery to Buyers nominated address in mainland United Kingdom. Any requests Buyer for delivery outside mainland United Kingdom are subject to A.R.T.'s prior agreement and shall entitle A.R.T. to adjust the price and delivery terms according. Whilst A.R.T. will use reasonable endeavors to keep to any agreed delivery date, it accepts no liability whatsoever for any loss or damage resulting from delay however caused nor shall late delivery or non-delivery be a basis for cancellation of any order by Buyer. A.R.T. may make part-deliveries. No partial delivery shall affect Buyers obligation to pay for any other part of the order. Goods shall be signed for on receipt. Any alleged discrepancy in delivery must be notified to A.R.T. in writing within days of receipt of the goods. All complaints not so filed are waived

Payment Unless otherwise agreed in writing, all payments by Buyer for the goods and or services shall be made to A.R.T. in accordance with the 'Credit and Settlement Terms' issued by A.R.T. to Buyer as indicated on the relevant invoice. Without prejudice to A.R.T.'s other rights and remedies including the right in any event to sue for the price whether or not the property in the goods has been passed, interest at the rate specified in the 'Credit and Settlement Terms' may be charged on the amount of any overdue account from the due date until the date of final settlement.

CV The risk of loss or damage to the goods shall pass to Buyer upon delivery of the goods at Buyers authorized trading premises whereupon Buyer shall be responsible for obtaining and paying for appropriate insurance.

Property in Goods A.R.T. shall retain title to the goods until it has received payment in full of all sums due in connection with the supply of all goods and services to Buyer at an time. For these purposes A.R.T. has only received payment when irrevocably credited to its bank account.

If any goods owned by A.R.T. are attached to, mixed with, or incorporated into other goods not owned by A.R.T. and are not identifiable or separable from the resulting composite or mixed goods. Title to the resulting composite or mixed goods shall vest in A.R.T. and shall be retained by A.R.T. for as long as and on the same terms on which it would have retained title to the goods in question. Buyer shall store goods owned by A.R.T. in such a way that they are clearly identifiable as A.R.T.'s property.

If Buyer fails to make any payment to A.R.T. when due, enters into bankruptcy, liquidation or receivership or a composition with its creditors, has a receiver, administrator, or manager appointed over all or part of its assets, or becomes insolvent, or ceases to trade or if A.R.T. has reasonable cause to believe that any of these events is likely to occur, A.R.T. shall have the right, without prejudice to any other remedies.

Claim Any complaints against A.R.T. (other than those referred to in Clause 6) must be made within one month of the date upon which Buyer became aware or ought to have become aware of the circumstances giving rise to the complaint. All complaints not so filed are waived.

Warranty A.R.T. warrants that goods sold hereunder shall be free of defects in materials and workmanship and will conform to any agreed specification's at the time of delivery and for such period thereafter, if any, as notified by A.R.T. to Buyer in writing. If Buyer alleges that the goods were defective at the time of delivery to Buyer, Buyer shall forthwith notify A.R.T. in writing of the alleged defects and shall, at A.R.T.'s option, return the goods and packing at its own expense to A.R.T. or, where so directed, hold the goods and packing for inspection by A.R.T. If the goods are proved to have been defective at the time of delivery A.R.T. undertakes to arrange for the repair or replacement of such defective goods free of charge.

The express warranty and undertaking above shall be the full extent of A.R.T.'s liability in respect of the sale of goods or supply of services. Accordingly, A.R.T. disclaims all other liability for loss or damage howsoever caused (except for death or personal injury arising from proved negligence) arising out of the purchase, possession, sale or use by Buyer of any goods or services provided and all other terms, conditions, and warranties express or implied whether statutory, arising out of trade usage or otherwise are hereby excluded.

In no event shall A.R.T. be liable for any special, incidental or consequential damages including, but not limited to the infringement of any intellectual property rights, delays, or inaccurate information or advice.

Confidential Information

Buyer shall not, without A.R.T.'s written consent, disclose to any third party any secret or confidential information supplied by A.R.T. to Buyer.

Buyer shall not copy or reproduce any drawings, specifications, or other written material supplied by A.R.T. in connection with the goods or any of the goods themselves or any part thereof.

Compliance with Law Buyer expressly agrees that it will not export or permit export of any A.R.T. goods, or use or permit the use of any A.R.T. goods, other than in accordance with all applicable laws (including complying with and obtaining appropriate permits in accordance with all applicable export and customs laws).

Force Majeure A.R.T. shall, without prejudice to other provisions hereof, be entitled to cancel or rescind any contract and shall not be liable for any loss or damage if its ability to perform its obligations under the contract is in any way adversely affected for any reason whatsoever not within A.R.T.'s control, or by commercial infeasibility including the failure by A.R.T.'s supplier to fulfill their obligations, the denial or cancellation of necessary permits or licenses or substantial increases in the costs of performance.

Buyers Default Should Buyer make default in any payment or otherwise be in breach of its obligations to A.R.T. under these Terms and Conditions or compound with or execute an assignment for the benefit of its creditors or commit any act of bankruptcy or being a company enter into voluntary or compulsory liquidation or suffer a receiver, administrator or manager to be appointed over all or part of its assets or take or suffer any similar action in consequence of debt, A.R.T. may, without prejudice to any other rights, cancel any undelivered or uncompleted portion of the order and stop any goods in transit.

Cancellation of Orders No cancellation of any order by Buyer shall be accepted by A.R.T. unless:

- i) the cancellation is received by A.R.T. in writing; and
- ii) A.R.T. accepts such cancellation in writing and is paid by Buyer (a) the sales value to A.R.T. of that part of the goods completed and work done in connection with the order; (b) the sales value of any items or materials bought by A.R.T. which cannot reasonably be used elsewhere by A.R.T. and (c) any other costs and liabilities which A.R.T. incurs by reason of Buyers cancellation. Any extra cost or liability incurred by A.R.T. due to suspension of work or of deliveries or lack of or mistaken instructions from Buyer or to any interruptions or delays attributable to Buyer shall be added to the price of the goods and/or services and paid for by Buyer.

Waiver No failure or delay by of A.R.T. in exercising any of its rights under these Terms and Conditions shall operate as a waiver thereof nor shall any single defective or partial exercise thereof preclude any other or further exercise of that or any other right.

Software License All A.R.T. software products (whether embedded in ROMs or other hardware or contained on disks or other media) including all related manuals and documentation (collectively "Software") are proprietary to A.R.T. and are copyrighted with all rights reserved. A.R.T. licenses rather than sells the Software. Title to all Software remains in A.R.T., and all Software received by Buyer is delivered subject to the terms of the related license agreement.

If Buyer does not sign a related A.R.T. software license then the following provisions will apply to the Software:

- (a) Buyer shall be granted a non-exclusive, non-transferable individual license to use the Software with the hardware identified in A.R.T.'s offer, quotation or acknowledgement, at the address, stated on Buyers order.
 - (b) No license is granted for use of the Software with any other hardware, or at any other address.
 - (c) Buyer acknowledges that it shall have no rights in the Software or any trade mark, trade name, or service mark used in association with the Software.
 - (d) In all cases, whether or not expressly contained in the related license, Buyer agrees not to (i) disassemble, decompile, reverse engineer, merge or combine with other software, copy, translate, adapt, vary or modify any Software (in whole or in part), (ii) communicate or disclose any Software (in whole or in part) to any third party, or (iii) distribute any Software (in whole or in part) in any form except as expressly permitted by applicable law.
 - (e) A.R.T. warrants that the Software shall substantially perform in accordance with the specifications contained in the Software's user manual existing on the date of delivery of the Software, for such period, if any, as may be notified in writing by A.R.T. to Buyer. A.R.T.'s sole obligation and Buyers exclusive remedy under this warranty, which is subject to Buyer providing A.R.T. with a written statement of the defect and A.R.T. substantiating the existence of the defect, shall be limited to A.R.T. using its reasonable efforts to correct such defect within a reasonable period of being notified of such defects. A.R.T. does not warrant that functions contained in the Software shall meet Buyers requirements. A.R.T.'s warranty obligation shall be void if the Software is modified in any way whatsoever without A.R.T.'s prior written consent.
 - (f) Save as provided in this Clause 18 no warranty of any type is deemed implied and is expressly excluded, and in no case shall A.R.T. be deemed responsible for indirect damages or other damages suffered by Buyer as a result of the acts or omissions of A.R.T.
 - (g) A.R.T. may terminate this Software license immediately upon any breach by Buyer of the provisions of this Clause.
- Proper Law** These Terms and Conditions shall be subject to and construed under English Law. If any provision is declared void or unenforceable by a court of competent jurisdiction with respect to particular circumstances, such provision shall remain in full force and effect in all other circumstances. If any provision is declared entirely void or unenforceable by a court of competent jurisdiction all other provisions of these Terms and Conditions shall remain in full force and effect .