

NIMBUS JOURNEY INFORMATION LIMITED and REACT TECHNOLOGIES

TERMS AND CONDITIONS OF SALE

GENERAL

The following terms and conditions shall apply to any sale of any products, software or services, delivery and order or acceptance and prevail over any inconsistent terms and conditions contained in or referred to in any purchase order, confirmation of order, or specification or implied by law, trade custom, practice or course of dealing unless agreed in writing by a duly authorised representative of Nimbus JI Ltd.

PRICES

Any quotation is indicative only and subject to the goods or services being unsold. Each order or acceptance of a quotation by the customer shall be deemed to be an offer by the customer subject to these terms and conditions.

Prices are exclusive of delivery, packaging, packing, shipping, carriage insurance, expenses, (travel and otherwise) VAT and other taxes which will be charged at cost or at prevailing rate as applicable.

All measures and other technical specifications provided in the offers or in any sales collateral or catalogue material are for guidance purposes only and Nimbus JI Ltd does not assume any liability for any errors that may exist in this material.

CONTRACT

A binding contract shall not come into existence between Nimbus JI Ltd and the customer unless and until Nimbus JI Ltd issues a written order confirmation or invoice to the customer, or Nimbus JI Ltd delivers the equipment to the customer (whichever occurs earlier). Telephone orders shall only be accepted if an official order number is provided. Nimbus JI Ltd may without notice vary any term of the order confirmation if changes occur to exchange rates, prices or delivery dates from the price of raw materials and any order confirmation is subject to obtaining any necessary license to import the goods.

CANCELLATIONS

No order which has been acknowledged by Nimbus JI Ltd may be cancelled by the customer, except if Nimbus JI Ltd accepts the cancellation and provided that the customer indemnifies Nimbus JI Ltd in full against all loss or expenses incurred by Nimbus JI Ltd as a result of cancellation, and pays all outstanding invoices.

DELIVERY TIME

Nimbus JI Ltd shall use its reasonable endeavours to deliver the goods or services on the date specified in the order confirmation, but any such date is approximate only, and will not be the essence of the contract. The delivery dates are subject to acts, events, omissions or accidents beyond Nimbus JI Ltd's reasonable control, including without limitations strikes, lock-outs or other industrial disputes (whether involving the workforce of Nimbus JI Ltd or any other third party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Nimbus JI Ltd of sub-contractors (Force Majeure Event) .

If no dates are specified, delivery shall be within a reasonable time of acceptance of the order.

PAYMENT

The terms of payment shall be within 30 days of the date of Nimbus JI Ltd's invoice and without any setoffs which have not been agreed in writing.

If the customer fails to make payment in full on the due date then interest at the rate of 2% of the amount outstanding shall be payable by the customer for every month or part of month from the due date until payment is made in full, and compounded for as long as additional charges accrue.

Furthermore Nimbus JI Ltd may at its discretion suspend any further deliveries of goods or services to the customer. The Customer shall not be entitled to withhold payment in whole in part on the grounds that it has a claim, counterclaim or set-off against Nimbus JI.

VARIATION OF CHARGES

For orders that include day rates or annual fees we reserve the right to review and alter the rates charged on a periodic basis.

RETENTION OF TITLE

Ownership of the goods shall pass to the customer on the later of completion of delivery or when Nimbus JI Ltd has received in full in cleared funds all sums due in respect of the goods and all other sums which are or which become due to Nimbus JI Ltd from the customer on any account. Until ownership of the goods has passed to the customer, the customer shall hold the goods on a fiduciary basis as Nimbus JI Ltd's bailee.

In relation to software, ownership of IP shall remain with Nimbus JI Ltd and the customer shall purchase a licence to use said software. This licence is subject to separate Terms and Conditions which are available upon request.

PRODUCT LIABILITY

For any personal injury or damage caused by a defect or omission in the goods, Nimbus JI Ltd is liable only in accordance with the effective law of product liability.

INDEMNITIES AND LIMITS TO LIABILITY

- a) Nimbus JI will undertake the assignment with reasonable care and skill, but shall not under any circumstances in relation to its undertaking the assignment be liable (in contract, tort or otherwise) for any loss or damage of whatsoever nature (including indirect or consequential loss or damage) suffered by the customer whether arising from any act, default or neglect on the part of Nimbus JI, its employees, agents or subcontractors or otherwise howsoever caused.
- b) Nimbus JI shall not in any event be liable for any indirect or consequential loss.
- c) The customer agrees to indemnify Nimbus JI fully and promptly against all costs, claims, demands, damages, and expenses to which Nimbus JI may become liable or which Nimbus JI may suffer or incur as a result directly or indirectly of Nimbus JI's acting in accordance with the customer's instructions, or arising from any act, default or neglect on the part of the customer, its employees, agents, or subcontractors.
- d) Notwithstanding anything to the contrary, however, nothing in these terms and conditions shall operate to exclude or restrict Nimbus JI's liability for death or personal injury from negligence within the meaning of the Unfair Contract Terms Act 1977.

COMPUTER SOFTWARE

Where any goods supplied by us embody, include or contain computer programs(s) and/or related documentation the copyright of which is owned by a third party, all rights and liabilities associated with the use and/or reproduction thereof will

NIMBUS JOURNEY INFORMATION LIMITED and REACT TECHNOLOGIES

TERMS AND CONDITIONS OF SALE

be subject to the terms applicable to the end user license to the exclusion of all liabilities and obligations on our part.

WARRANTY

- a) Nimbus JI warrants that any software developed for the customer will for 60 days from the date of your purchase perform under normal usage conditions substantially in accordance with its product specification. Nimbus JI does not warrant that the functions contained in the software will meet your business requirements or that the operation of the software will be uninterrupted or free from error. The sole obligation under this warranty shall be to remedy any nonconformity of the software to its product specification. This warranty does not apply if you modify or enhance the in any way.
- b) While Nimbus JI will take due care to ensure reasonable performance and scalability of the delivered software, Nimbus JI does not warrant that it will achieve any specific performance or scalability requirements unless explicitly specified in the project quotation.
- c) This constitutes the only warranty provided by Nimbus JI in respect of the software and the obligations and liabilities in this Agreement replace all implied guarantees and warranties, including any warranty of quality or fitness for a particular purpose.
- d) Nimbus warrants hardware purchased for a period of 12 months.

INTELLECTUAL PROPERTY

The customer will indemnify Nimbus JI Ltd against all liabilities for infringement of third party intellectual property rights arising from Nimbus JI Ltd's compliance with the customer's specific requirements regarding design or specification for the goods or arising from the use of goods in combination with other products. Intellectual property ownership for all software and hardware supplied remains with Nimbus JI . Sale of a licence or good to the customer infers no transfer of Intellectual property rights to the customer other than in pursuance of service specifically provided for under the contract.

DEVELOPMENT PROJECTS

During the development we will indicate the phasing and payment cycle we wish to follow. We view the development as a joint venture and therefore expect you to do your best to achieve all the milestones of the project that are your responsibility in the same way you expect us to achieve our deliverable milestones.

TRANSFER OF STAFF

Except as provided later in this provision, otherwise than by written agreement with each other neither party will, during the term of this agreement and for a period of 6 months after the termination of this agreement, intentionally make or seek to make any offer of employment or other contract for services, whether directly or indirectly, to any of the other party's employees or individual contractor suppliers involved in the performance of work under or pursuant to this agreement or with whom they have become acquainted as a result of this agreement. In the event that either party breaches this provision it will be contractually bound to pay the other party the greater of 3 times the person's annual salary inclusive of all benefits at time of their resignations or departure or 3 times the new annual salary or fee inclusive of all benefits, such being deemed by both parties to this agreement to be fair compensation for such loss. This provision shall not apply in respect of any individual who ceased to work for the affected party at least 6 months prior to any approach, nor to any individual who can be proved to have responded to a bona fide published recruitment advertisement where the recruited person is not recruited to work for or with a

party's personnel or department involved in the agreement. In addition, where the party wishing to approach the employee or contractor concerned informs the other party to this agreement then that other party may either refuse or give such consent, and either waive its right to compensation or seek the full or any alternative amount as compensation for its loss. Nothing in this clause is intended to prevent the right of any individual to seek employment with whomsoever they wish, but this clause is intended to provide for due compensation where such a situation occurs as a result of entering the agreement, recognizing that loss of experienced personnel can have a serious effect on any employer.

SUBSTITUTION OF STAFF

Nimbus JI reserves the right to substitute any staff assigned to a project.

MAN DAYS

Any work undertaken on a man day basis is calculated based on a working day of seven and a half hours. Actual working times may be determined at the sole discretion of Nimbus JI.

FORCE MAJEUR

If either party's due performance of the assignment is affected by any accident, event, omission or other matter beyond the party's reasonable control, he shall give prompt notice thereof to the other party and shall be under no liability for any injury, loss, damage, or expense (direct or consequential) suffered by the other party due to the affected performance. Such party shall use reasonable efforts to avoid or overcome the causes affecting performance and shall fulfill outstanding performance when practical to do so.

NOTICES

Notices relating to the contract shall be in writing, and be sent by first-class letter or facsimile or delivered by hand to Nimbus JI or the customer at their normal working address, or such other address as each party may from time to time designate. Proof that an envelope containing a notice was correctly addressed, prepaid, and posted, shall be proof that it was sent.

WAIVER

Should either party fail to enforce any provision of the contract at any time this shall not affect its right thereafter to require complete performance by the other party. Waiver of a breach of any provision shall not be taken to be a waiver of any subsequent breach or of the provision itself. Any waiver will be ineffective unless given in writing.

DISPUTE

Any dispute arising in connection with the contract between the parties shall after written notice by either party to the other be referred to a single arbitrator mutually agreed for the purpose, or in default of such agreement to be appointed at the request of either party by the President of the British Computer Society.

WHOLE AGREEMENT

These Terms and Conditions together with those in the quotation shall apply to any contract for the provision by Nimbus JI to the customer of professional services, constitutes the entire contract between Nimbus JI and the customer and supersedes all previous communications, representations and contracts either written or oral. In the case of any inconsistency between these Terms and Conditions and those in the quotation, the ones in the quotation shall prevail. The printed terms and conditions of any purchase order or other correspondence of the customer in connection with the contract shall not apply. The customer acknowledges that it is not entering into the contract in reliance upon any representation not set out in the contract.

No amendment to the contract shall be binding unless in writing, signed by the parties or their duly authorised representative and expressed to be for the purpose of such amendment.

NIMBUS JOURNEY INFORMATION LIMITED and REACT TECHNOLOGIES
TERMS AND CONDITIONS OF SALE

VALIDITY

In the event that any of these conditions shall be held to be invalid or unlawful to any extent then such part of these conditions shall be severed from the remaining conditions which shall continue to be valid and enforceable to the fullest extent permitted by law.

LAW

These conditions and the contract and all matters pertaining thereto shall be governed by English Law and the English courts shall have jurisdiction in relation thereto.