

TERMS AND CONDITIONS OF SALE

1. Application

These Terms and Conditions shall apply to the purchase of the products (the "Products") detailed on the Pro Forma Invoice (PI) which references these terms, between you (the "Buyer") and Exponential Solutions Inc, a company registered in Alberta, Canada under Corporate Access Number 2015999077 whose registered office is at 600 Crowfoot Crescent, Suite 340, Calgary, AB T3G0B4 (the "Seller"), and to the payment of this invoice. No other terms and conditions shall apply to the sale of the Products or to this invoice unless agreed upon in writing between the Buyer and Seller.

2. Interpretation

- 2.1 A "business day" means any day other than a Saturday, Sunday or statutory holiday.
- 2.2 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.
- 2.3 Words imparting the singular number shall include the plural and vice-versa.

3. Products

- 3.1 The description of the Products are as set out in the Seller's Formal Product Specification for the Products. In accepting the PI the Buyer acknowledges that it does not rely on any other representations regarding the Products save for those contained in the formal product documentation. No descriptions of the Products set out in the Seller's marketing collateral shall be binding on the Seller and are intended as a guide only.
- 3.2 The Seller reserves the right to make any changes in the specification of the Products which are required to conform to any applicable safety or other statutory or regulatory requirements.

4. Pro Forma Invoice and Price

- 4.1 The price ("Price") of the Products shall be that detailed in the Pro Forma Invoice (PI).
- 4.2 The Buyer is responsible for paying the Price which shall include fees for packaging, shipping and shipping insurance, to the extent such services have been requested by the Buyer upon ordering.
- 4.3 The PI will show the total amount due, (the "Price") by the Buyer. It will also provide a Commitment Amount. The Commitment Amount is required to secure the manufacturing and shipment of the Products. The PI will provide an estimated date of shipment.
- 4.4 The PI will have a validity of 5 working days, after which the Seller reserves the right to change the Price.
- 4.5 Any increase in the Price under sub-Clause 4.4 shall only take place upon the Seller informing the Buyer of the increase in writing.
- 4.6 The Seller will advise the Buyer once the Products have been shipped. Any balance owing on the PI then falls due immediately upon such notification and must be settled forthwith according to the instructions provided in the PI.

- 4.7 Upon receipt, the Buyer may be required to connect each Product to the Internet, in order to activate the Products. The Seller reserves the right to deny or revoke activation of Products until such time as the Seller has received any outstanding balance owing on the PI. Without activation, Products will not be fully functional.

5. Basis of Sale

- 5.1 The Pro Forma Invoice (PI) constitutes written confirmation by the Seller of the Buyer's order for the Products, and is a contractual offer to sell the Products under these referenced terms.
- 5.2 The Buyer accepts the offer by returning the signed PI to the Seller by electronic or other written communication as determined by the Seller, or by payment of the Commitment Amount to the Seller in respect of the PI. The Seller and the Buyer have then entered into a contract for the sale of the Products.

6. Payment

- 6.1 The Buyer shall pay the Price stated in the PI as described in Clause 4 and in such instalments and in accordance with the instructions contained in the PI.
- 6.2 If the Buyer fails to make payment within the period in sub-Clause 6.1, the Seller shall suspend any further deliveries to the Buyer and charge the Buyer interest at the rate of 8.99% per annum above the Canadian Imperial Bank of Commerce base rate from time to time on the amount outstanding until payment is received in full.
- 6.3 Time for payment is of the essence of the Contract between the Seller and the Buyer.
- 6.4 All payments must be made in the currency indicated on the PI, unless otherwise agreed in writing between the Seller and the Buyer.
- 6.5 The Seller shall determine the method of payment, be it internet payment, wire transfer, bank draft, credit card payment or otherwise.

7. Delivery

- 7.1 The Seller may in its sole discretion dispatch the Products in multiple shipments. Where Products consist of components such as hardware unit, storage card and power supply, then unless the PI indicates otherwise, Seller may in its sole discretion dispatch such components in separate and multiple shipments, for final assembly by the Buyer in accordance with instructions which shall be furnished by the Seller.
- 7.2 The Seller will provide the Buyer with any instructions for the activation of the Products, provided that all required payments have been made.

- 7.3 The Seller shall use its reasonable endeavours to comply with any day or dates for dispatch of Products as stated in the PI; however, such dates shall constitute only statements of expectation and shall not be binding. If the Seller, having used its reasonable endeavours fails to dispatch the Products by such date or dates whether or not binding, such failure shall not constitute a breach of this Agreement. The Buyer shall not be entitled to treat the Agreement as thereby repudiated or to rescind it or any ancillary Agreement in whole or in part or claim compensation for such failure or for any consequential loss or damage resulting therefrom.

8. Inspection of Products

- 8.1 The Buyer shall have the right to inspect the Products on delivery.
- 8.2 Failure to give notice in writing to Seller of any obvious defects or omissions within ten (10) days after delivery shall constitute an irrevocable acceptance of the Products.
- 8.3 In the event the Buyer rejects any shipment of the Products, and elects to accept only a part thereof, it is agreed that the portion of Products rejected shall be returned to Seller within ten (10) business days and shall be at the expense and risk of the Buyer. The Seller shall have the right in its discretion either to replace the rejected Products or to provide a rebate for the number of units of Products not so replaced. Rebates can only be applied against future orders.
- 8.4 The Seller shall be under no liability for and shall not indemnify the Buyer against any matters arising from damage or shortages.

9. Risk and Title

- 9.1 Risk of damage to or loss of the Products shall pass to the Buyer upon shipment of the Products.
- 9.2 Legal and beneficial title in the Products shall not pass to the Buyer until the Seller has received, in cash or cleared funds, payment in full of the Price.
- 9.3 The Seller reserves the right to repossess any Products in which the Seller retains legal and beneficial title if full payment is not received in accordance with Clause 6. In the event of such repossession the Buyer shall deliver the Products in which legal and beneficial title has not passed to the Seller at its own cost.
- 9.4 The Buyer's right to possession of the Products in which the Seller retains legal and beneficial title shall terminate if:
- a) the Buyer commits a material breach of its obligations under these Terms and Conditions;
 - b) the Buyer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;
 - c) the Buyer enters into a voluntary insolvency arrangement or any other scheme or arrangement is made with its creditors; or

- d) the Buyer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Buyer, notice of intention to appoint an administrator is given by the Buyer or any of its directors or by a qualifying floating charge holder, a resolution is passed or petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer.
- 9.5 Where a license is to be granted by the Seller to the Buyer in relation to this transaction, any grant of the license will be automatically suspended until payment in full has been received by the Seller.

10. Shipping Insurance

If the Buyer has requested shipping insurance and it is detailed on the PI, the Seller shall secure shipping insurance at the Buyer's expense. The Buyer's acceptance of the PI confirms the adequacy of the insurance. Under Clause 9, risk passes to the Buyer upon shipment of the Products, therefore in the event of loss or damage to the Products while in transit, the Buyer's sole remedy shall rest with such insurance coverage without regard to a breach or default and without regard to the adequacy of the recovery of insurance proceeds.

11. Casualty to Goods

In the event that the Products covered by this contract are destroyed or damaged, in whole or in part, prior to time the risk of loss passes to the Buyer, this contract shall be avoided and the Seller excused from all obligations hereunder. If the loss is partial, the Buyer shall have the right to accept that portion of the Products which conform to the written contract.

12. Hardware Warranty and Returns

- 12.1 Each Product is provided with a one year hardware warranty from the date of shipment. This warranty covers hardware failures as a result of hardware breakdown, defects in material or workmanship.
- 12.2 The Seller shall not be liable for defects or any claims arising out of normal wear and tear, the failure to follow any instructions given by the Seller, or if the Product has been operated or run on any platform or in any environment not approved by the Seller, or if the Product has been subject to: abuse, accident, alteration, modification, tampering, negligence, misuse, mishandling, faulty installation, lack of reasonable care, wilful damage, repair or service in any way that is not specified in the documentation for the Product, or if the model, serial number, MAC address, storage card or firmware is altered, tampered with, defaced or removed, or any other similar act of the Buyer, its employees, agents or any other third party.
- 12.3 Installation of the Product is the Buyer's sole responsibility. The Seller accepts no responsibility for malfunction and/or damage caused by improper installation.
- 12.4 The Buyer may purchase from the Seller an extended warranty for additional periods, subject to the eligibility terms of such an extended warranty. Any extended warranty will be at additional cost and on separate terms.
- 12.5 Subject to sub-Clause 12.2, the Seller shall only accept returned Products if it is satisfied that those Products are defective and that such defects would not have been apparent upon the initial inspection set out in Clause 8.

- 12.6 Products may only be returned with the prior written authorization of the Seller. If there is a hardware problem with a Product, the Buyer must contact the Seller's technical support. The Seller may assist the Buyer in determining which hardware aspect of the Product is the cause of a failure. In order to conduct such an analysis, the Seller may require the Buyer to return the Product from the field to the Buyer's offices, at the Buyer's expense. The Seller may ask the Buyer to perform a few simple tests and inspections of the Product as part of the analysis. Depending on the results of any analysis so performed, the Seller may provide the Buyer with a Return Merchandise Authorisation (RMA) and instructions for returning the Product or part thereof to the Seller, at the Buyer's expense.
- a) The Buyer must follow any RMA instructions that the Seller will provide – for example the Seller may require the Buyer to return the Product within 7 days of the Seller issuing the RMA number.
 - b) If indicated in the RMA, Products must be returned in the original packaging where possible.
 - 1 If the Product is still under warranty and found to be defective, then, upon the Seller's sole discretion, the Seller may either repair or replace the Product free of charge, or may provide the Buyer with a rebate for one unit of the Product.
 - 1 If the Seller is unable to ship the repaired or replacement Product back to Buyer within 30 days of Seller's receipt of the defective Product, Seller will provide Buyer with the rebate instead.
 - 2 The Seller will cover the cost of shipping the repaired or replacement Product back to the Buyer; or in the event of providing the Buyer the rebate, will provide the Buyer with a further rebate for the shipment of one unit of the Product.
 - 2 If the Product's warranty has expired, or the warranty has been voided as set out above, then Seller may be able to provide repair services at a charge, including expenses for the cost of material and the cost of labor. In such an event, Buyer will be responsible for the cost of shipping the Product back to Buyer.
 - c) Any rebates the Seller provides to the Buyer, can only be redeemed against future hardware orders the Buyer places with the Seller.
 - d) Where the Seller elects to replace a defective Product, the Seller may also replace it with a different Product that is of materially similar functionality.
 - e) Any replaced Product or part assumes the warranty status of the removed Product or part and will only be under warranty for the remainder of the original warranty term left.

13. Firmware and Software Warranty

- 13.1 The Seller provides a limited 1 year warranty from the date of shipment, on the Product Firmware and Software, that the Product Firmware and Software will substantially conform to the user documentation as published by the Seller at the time the Product was ordered
- 13.2 In the event of Product Firmware and Software non-conformance to documentation, the Buyer must submit a written report of the non-conforming behaviour to the Seller's technical support via electronic mail.

- 1 The Buyer undertakes to furnish the Seller with all assistance the Seller may reasonably require to investigate any alleged non-conformance.
- 2 While the Seller will endeavour to produce Firmware and Software updates, fixes, patches or work-arounds on a reasonable-effort basis, the Seller makes no guarantees in respect of the timeliness of any such update or that all errors will be resolved.▲
- 3 The Buyer's sole and exclusive remedy and the entire liability of the Seller under this limited warranty will be, at the Seller's option, repair, replacement, or rebate of the value of non-conforming Firmware or Software component.▲
- 4 Any rebates the Seller provides to the Buyer, can only be redeemed against future hardware or firmware update orders the Buyer places with the Seller.

14. Exclusion of Other Warranties

- 14.1 The Seller does not warrant that the Products are free from minor errors not materially affecting performance. Such errors shall not be rectified in the absence of a prior written agreement to the contrary.
- 14.2 There are no warranties, express or implied, that extend beyond the Seller's Formal Specifications for the Products.
- 14.3 The Seller's entire warranty, as set out herein, is limited to providing the Buyer with a rebate, or restoring the Product to its normal functioning capability, or providing the Seller with a replacement Product of materially similar functional capability, at the Seller's option.
- 14.4 All other warranties, conditions or other terms, expressed or implied, by statute, common law or otherwise, are excluded to the fullest extent permitted by law. The Seller expressly disclaims any warranty, express or implied, that Product, Firmware or Software supplied hereunder will operate uninterrupted or free of error, or is of merchantable quality or that it can be used, or is fit for any particular purpose.

15. Limitation of Liability

- 15.1 Seller will not be liable, by virtue of warranty or otherwise, for any loss or damages of any nature, whether direct, indirect, incidental, special, secondary, statutory, consequential or exemplary, including but not limited to, any loss of profits, revenue, goodwill, use, data or other intangible losses (even if Seller has been advised of the possibility of such damages), for whatever reason, including but not limited to:
 - a) the use or the inability to use the Product or any part thereof
 - b) any malfunction of the Product or any part thereof
 - c) the connection of the Product to other equipment, whether authorised or not
 - d) any support provided by Seller
 - e) unauthorised access to or alterations of Buyer's transmissions or data
 - f) any other matter related to the Product or any part thereof.

- 15.2 Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Product or any part thereof, must be filed within one (1) year after such a claim or cause of action arose or be forever barred.

16. Proprietary Rights

- 16.1 Copyright, ownership in all patents and designs, all intellectual property rights and all other proprietary rights in the Products, associated Software and Firmware and associated documentation and all parts and copies thereof shall remain vested in the Seller or its suppliers and licensors, as the case may be.
- 16.2 Only physical Product Hardware Units and related physical components (power supplies, storage cards) are sold under these Terms. In respect of Software and Firmware only a non-exclusive, non-transferable licence for the purpose for which the Software and Firmware has been made available to the Buyer is deemed to be granted by the Seller and only then on condition that the Buyer fulfils all of its relevant obligations arising out of these Terms.
- 1 Each unit of Product Firmware or Software is licensed (not sold) only to be used with the single and specific Product Hardware Unit upon which such firmware license is initially activated (whether such activation is performed by the Buyer or by the Seller).
 - 2 Product Firmware and Software is licensed only for use in accordance with and in conformity to the Product documentation and specifications provided by the Seller to the Buyer.
- 16.3 Except for the limited license rights expressly granted in these Terms, the Seller reserves all rights in and to the Firmware or Software and any modifications or copies thereto.

17. Intellectual Property

- 17.1 The copyrights and intellectual property embodied in the Products, associated Software and Firmware and any visual or audio work distributed with the Firmware belong to the Seller or have been appropriately licensed to the Seller.
- 17.2 Should this be determined not to be the case, the Seller will either replace the offending intellectual property without materially reducing functionality; or will obtain the right to utilise the intellectual property in question.

18. Other Limitations and License Restrictions

- 18.1 The Product, Firmware or Software is not fault-tolerant and is not designed, manufactured or intended for any use in any environment that requires failsafe performance or in which the failure or malfunction of the Product, Firmware or Software or any part thereof could lead to death, personal injury or significant property damage. Such environments include, among others, control systems in a nuclear, chemical, biological or other hazardous facility, aircraft navigation and communications, air traffic control, life support systems in a healthcare facility, explosive environments, or any uses employing the Product to make any kind of emergency announcement. Any such use is unauthorised and entirely at Buyer's own risk, and Buyer agrees to indemnify Seller from and against any claim relating to such unauthorised use.

- 18.2 Firmware, Software and any Documentation supplied, are regarded as confidential information by Seller and its suppliers, ("Confidential Information") and Buyer agrees at all times to protect and preserve in strict confidence the Firmware, Software and Documentation.
- 18.3 The Buyer agrees that any pricing information provided by Seller, and the know-how for selecting, producing and obtaining the appropriate hardware, the know-how for selecting and obtaining the appropriate card, the know-how for qualifying and integrating the firmware with the card and hardware, and the know-how for the combining of the various components into a functional product, constitutes Confidential Information that is proprietary to the Seller and which can be considered Seller's trade secrets.
- 18.4 To the maximum extent permissible under applicable law, the Buyer agrees not to:
- 1 copy, translate, adapt, alter, vary, modify, disassemble, decompile or reverse engineer the Product or any part thereof (including Software, Firmware or Hardware)
 - 2 create any derivative works based on the Hardware, Firmware or Software
 - 3 gain access to or the use of any Firmware or Software or part thereof without authorisation from the Seller
 - 4 utilise the Product Hardware to interoperate with or execute Firmware or Software not provided by Seller or which has not been authorised in writing by the Seller
- 18.5 Buyer acknowledges that Product Firmware or Software may contain programming that:
- a) restricts, limits and/or disables access to certain features, functionality or capacity of such Firmware or Software subject to the Buyer making payment for licenses to such features, functionality or capacity; or
 - b) Periodically deletes or archives data generated by use of the Firmware or Software and stored on the applicable storage device if not backed up on an alternative storage medium after a certain period of time.
- 18.6 Buyer further agrees not in any way to provide the Product or the use thereof to any Third Party without first obligating such Third Party to jointly assume all of its obligations under this section and to comply with all terms and provisions of this section. Buyer shall be responsible for any Third Party's failure to comply and shall indemnify Seller for any damages, loss, expenses or costs, including attorneys' fees and costs of suit, incurred by Seller as a result of non-compliance with this section. Notwithstanding the foregoing, if the Software is rightfully located in a member state of the European Union and an End User needs information about the Software in order to achieve interoperability of an independently created software program with the Software, the End User will first request such information from Seller. Seller may charge End User a reasonable fee for the provision of such information.

19. Termination of Firmware / Software License

If these Terms are breached, Seller may, with immediate effect, terminate the Firmware or Software licenses granted in these Terms without prejudice to any available rights and remedies. Upon termination or expiration of the license for any reason, the Firmware or Software and any copies and related materials must be returned to Seller, or, at Seller's discretion, be permanently destroyed. Inadvertent copies of the Firmware or Software and any related materials remaining in the possession of the Buyer or any End User subsequent to termination or expiration shall not be implied or construed as the Seller consenting to transfer ownership of the Firmware or Software and any related materials to the Buyer or End User. The provisions concerning confidentiality, indemnity, license restrictions, export control, and all limitations of liability and disclaimers and restrictions of warranty (as well as any other terms which, by their nature, are intended to survive termination) will survive any termination or expiration of the license or these Terms.

20. Support

- 20.1 The Seller may, in its sole discretion, charge for any and all non-warranty support requested, at its applicable rate then in effect.
- 20.2 The Seller may require the serial number of any Product in relation to which support is requested, prior to rendering any support.
- 20.3 The Seller is authorised to access any installed Products remotely (via network access) as Seller may deem necessary, in order to conduct diagnostic and support processes that Seller may consider necessary. In the event that an installed Product requiring support is not network-accessible to Seller, Seller may refuse to render support until the appropriate network connectivity has been arranged for the Product by the Buyer or End User (at such other party's expense).
- 20.4 While the Seller may make additional and extended support options available, such will be at additional cost, and will be subject to the eligibility terms of such additional support options

21. Communications

- 21.1 All notices under these Terms and Conditions shall be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).
- 21.2 Notices shall be deemed to have been duly given:
 - a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
 - b) when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
 - c) on the tenth business day following mailing.
- 21.3 All notices under these Terms and Conditions shall be addressed to the most recent address, email address or fax number notified to the other party.

22. Force Majeure

Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

23. No Waiver

No waiver by the Seller of any breach of these Terms and Conditions by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

24. Severance

In the event that one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which shall remain valid and enforceable).

25. Law and Jurisdiction

25.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of the Province of Alberta.

25.2 Any dispute, controversy, proceedings or claim between the Seller and the Buyer relating to these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of the Province of Alberta.