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GLOBAL VIEW SYSTEMS

GENERAL CONDITIONS OF SALE



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Global View Systems General Conditions of Sale

1. Definitions and Interpretations

"Conditions" means these conditions of sale.

"GVS" means Global View Systems Limited.

"Products" means the Products to be sold by GVS to a Purchaser and includes where the context so requires all or any of the components and parts comprised in such hardware products, and any computer software incorporated therein or delivered therewith and any remote network services or support services delivered therewith.

"Purchaser" means any person or company who purchases Products sold by GVS either directly from GVS or through an authorised GVS channel partner.

"Contract" means any contract or authorised purchase order between GVS and a Purchaser for the sale by GVS of any Products to such Purchaser.

"Programs" means the computer software including all documentation, diagrams and specifications delivered separately or integrated with other components included in the Products.

"Program Errors" means any verifiable and reproducible failure of the Software to materially conform to the specifications in GVS documentation.

2. Effect of Conditions

2.1 Except where agreed in writing by GVS to the contrary the Conditions shall apply to all Contracts made between GVS and a Purchaser. Any of the terms and provisions contained in a Purchaser's order which are inconsistent with these Conditions shall not be binding on GVS and shall not apply to such sale and purchase.

2.2 Any order placed by a Purchaser pursuant to a quotation or tender from GVS shall be deemed to incorporate the terms contained in such quotations or tender.

3. Price

3.1 The prices for the Products are ex-works, and exclusive of all carriage, installation, commissioning and other charges and VAT which shall be paid by the Purchaser. If the Products are to be exported outside the United Kingdom the Purchaser shall pay the cost incurred by GVS or on its behalf of obtaining all necessary export authorisations and all import duties, sales taxes, charges and assessments.

3.2 GVS reserves the right to increase the price for the Products in the event of:

- 3.2.1** increase in costs incurred by GVS resulting from delays caused by any reason directly attributable to any act or default of the Purchaser.
- 3.2.2** changes in Products or specifications or design thereof which are requested by the Purchaser.
- 3.2.3** incorrect or incomplete information furnished by the Purchaser.
- 3.2.4** increases in costs incurred by GVS resulting from delays which are attributable to reasons beyond GVS's control.
- 3.2.5** unless the price has been quoted to the Purchaser as being fixed, any increases in costs incurred by GVS which are due to an increase in the RPI (Retail Price Index) between the date of the Agreement and the date of delivery. In this event GVS shall be entitled to increase the price by an amount proportional to the percentage increase in the said index.
- 3.2.6** a decrease in the UK Pound value of the Contract by more than two and a half (2.5) percent due to foreign currency variation.

4. Payment

4.1 Payments shall be made within fourteen (14) / twenty one (21) / strict thirty (30) days of invoice date depending on contract. The Purchaser shall not be entitled to make any deduction from the price in respect of any set-off counterclaim. Notwithstanding the foregoing GVS shall have a right to present an invoice in respect of the Products or any part thereof that has been delivered to the Purchaser or made available to them.

4.2 Without prejudice to any other remedy, including the right to terminate all Contracts if payment is not made in accordance with Clause 4.1 the Purchaser shall pay on demand, in addition to any moneys due hereunder, interest on the overdue amount at one (1) percent per month or part thereof from the date of such failure to the date of actual payment (before as well as after judgement).

4.3 GVS reserves the right, upon written notice to Purchaser, to declare all sums owing to GVS immediately due and payable in the event of a breach by Purchaser of any of its obligations in any Contract with GVS.

4.4 All payments shall be made in Pounds sterling, unless agreed to the contrary by GVS in writing and prices quoted are exclusive of any currency control or restrictions and any taxes all of which shall be payable in addition.

5. Delivery and Installation

5.1 GVS will use its best endeavours to deliver or make available (as the case may be) the Products or any part thereof on the delivery date(s) and at the delivery address(es) agreed between the parties.

5.2 GVS will only provide installation and commissioning services if they are specified on a Contract

6. Force Majeure

If GVS shall be prevented (directly or indirectly) from performing or completing any of its obligations under these Conditions by reason of Act of God, war, strike, lockout, trade disputes, fires, breakdowns, interruptions of transport, government action, delays in delivery to GVS of any Products or parts thereof or any cause whatsoever (whether or not of the like nature to those already mentioned) outside its control. GVS shall promptly, and in any event within five (5) business days, notify the Purchaser in writing with details of any claimed Force Majeure event (namely, the date the relevant Force Majeure event commenced and the reasons therefore) and shall thereafter promptly, and in any event within five (5) business days, notify the other Purchaser in writing of the date on which such Force Majeure event ended and the effect of such delay on compliance with the terms of the Agreement.

7. Delivery by Instalments

Where delivery is made by instalments these Conditions shall (with any necessary alternations) apply to each instalment of such Products. In particular (but without any way limiting the generality of the foregoing) unless otherwise agreed between the Purchaser and GVS payments shall be made as if the instalment delivered had been comprised in a separate agreement and the price and payment date specified in such separate agreement had been the price and payment date agreed between the parties or date of actual delivery (whichever shall be the earlier).

8. Passing of Property and Risk

8.1 Risk in the Products or any part thereof shall pass to the Purchaser at the time of actual delivery thereof to the Purchaser or (if the Purchaser arranges collection of the Products) at the time of such collection.

8.2 Until all moneys due to GVS by the Purchaser have been paid:

8.2.1 all rights, title and property in equity and in law in the Products shall remain vested in GVS and shall not pass to the Purchaser; and

8.2.2 the Purchaser shall not sell, assign, mortgage, pledge, lend or otherwise transfer or dispose of any interest in or create any charge or lien over or otherwise encumber the Products or do any act thing or permit any act thing to be done which may in any way prejudice GVS's rights to and title to the Products; and

8.2.3 the Purchaser shall hold the Products in such a way as to indicate clearly that it is the property of GVS; and

8.2.4 the Purchaser shall keep the Products in good and substantial repair and operating condition.

8.3 GVS may maintain an action for the price notwithstanding that property in the Products may not have passed to the Purchaser.

8.4 The Purchaser hereby acknowledges that until the Purchaser acquires title to the Products, the relationship between GVS and the Purchaser in relation to the Products shall be a fiduciary one and the Purchaser shall hold the Products as bailee for GVS.

8.5 Each of the paragraphs of this Clause 8 shall be construed as a severable contract term not affected by any invalidity or unenforceability of any other contract term and shall survive the termination of the Contract.

9. Exclusions and Limitations of Liability

9.1 The Purchaser hereby acknowledges that the nature of Products is inherently such that breakdowns or malfunctions may occur. The Purchaser agrees that GVS's obligations in respect of such breakdowns or malfunctions are limited to those set out in this Clause 9.

9.2 If the Purchaser and GVS shall not enter into a maintenance agreement then but not otherwise, GVS will provide the following limited service:

9.2.1 if before the expiration of one year from the date of actual delivery of the Products and if the Purchaser shall have complied with its obligations hereunder any part of the Products shall prove defective and shall be returned to GVS's factory at the cost of the Purchaser and if upon inspection GVS agree that the part is defective GVS will repair or replace the same (as GVS may think fit) and will return the same to the Purchaser but GVS shall be under no further liability or obligations in respect thereof.

9.2.2 GVS shall not be required to provide the limited service referred to sub-paragraph 9.2.1 of this Clause.

9.3 If any such works of maintenance, repair or replacement shall be required because of accident, neglect, misuse, failure of electrical power, failure to maintain the recommended environmental conditions or because of use which is other than the ordinary and proper use of the Products;

9.3.1 if anything which may be connected to the Products is unsuitable for such connection or interferes with the proper functioning of the Products.

9.3.2 for any party other than the Purchaser.

9.3.3 in respect of any such consumable item.

9.3.4 if before the expiration of one year from the date of actual delivery of the Products and if the Purchaser shall have complied with its obligations hereunder any part of the Programs shall prove defective GVS shall investigate and fix all replicable and verifiable Program Errors.

9.3.5 GVS shall not be required to fix errors where:

9.3.5.1 the Error results from Purchaser's misuse or improper use of the Programs.

9.3.5.2 the Error does not materially affect the operation and use of the Programs.

9.3.5.3 the Error results from the modification by Purchaser or any third party of the Programs in a fashion not contemplated by the Contract.

9.3.5.4 results from Purchaser's failure to implement in a timely manner any relevant improvements, modifications or updates to the Programs or the operating environment advised or made available to Purchaser.

9.4 GVS will in no circumstances have any liability for loss of profit, revenue or goodwill or for any liability of the Purchaser to any other person (save only as set out in Clause 12) or for any other indirect or consequential loss howsoever arising.

9.5 Except where the negligence or default of GVS results in death or personal injury, the aggregate liability of GVS under or in conjunction with the Contract and/or the Products or any part thereof (no matter how many claims are made or whatever the basis of such claims) shall be limited in total to the price paid for the Products.

9.6 The Purchaser agrees that they are in a better position to foresee and evaluate any indirect or consequential loss they may suffer in connection with the Products and that the price therefore has been calculated on the basis that GVS will exclude and limit liability as set out in this Clause. The Purchaser agrees that they have an opportunity to insure against such loss.

9.7 Insofar as it limits or excludes liability, this Clause 9 shall override any other provision in these Conditions and each of the paragraphs of this Clause shall be treated as a severable contract term not affected by any invalidity or unenforceability of any other paragraph or contract term, and shall survive the termination of the Contract.

10. Termination

10.1 Without prejudice to any other rights of GVS, GVS shall have the right to terminate the Contract (including the licence contained in these Conditions) forthwith by notice in writing to the Purchaser in the following circumstances:

10.1.1 if the Purchaser should be in breach of any of its material obligations under a Contract and either such breach is incapable of remedy or the Purchaser should not remedy such breach within thirty days after receipt of notice requiring it to remedy the same.

10.1.2 if any distress or execution should be levied on the property of the Purchaser or if it should make any arrangement or composition with its creditors generally or commit an act of bankruptcy or if any receiving order should be presented or made against it or if the Purchaser (being a Company) has any petition presented or resolution passed for its winding up (otherwise than for the purpose of and followed by an amalgamation or reconstruction) or dissolution or an encumbrancer should take possession or a receiver or administrator should be appointed of the whole or any material part of the assets of the Purchaser.

10.2 the Company shall if the Purchaser demands it, refund to the Purchaser any sums paid in advance by the Purchaser in respect of such orders placed but not fulfilled, after deduction of any amounts owing to the Company by the Purchasers.

10.3 the Company shall have the option, to be exercised by letter, e-mail, within seven (7) days of the date of Termination of the Agreement to repurchase from the Purchaser any stocks of the Products which shall then be in the possession of or under the control of the Purchaser, and which are not contracted for sale to other parties, for the price paid by the Purchaser for the Products, less a fifteen (15)% restocking charge, provided always that the Company shall be responsible for the cost of carriage and insurance of such re-purchased Products;

10.4 the Purchaser shall cease forthwith to represent itself as the appointed distributor of the Company's Products within the Territory and shall remove all reference to such effect from its stationery, promotional literature and name plates, at its own cost.

10.5 the Purchaser shall cease to advertise or promote the Products or to make any use of the trademarks or trade names.

10.6 the Purchaser shall at its own expense deliver to the Company or otherwise dispose of in accordance with the Company's instructions all sales and promotional literature, documents containing technical information and customer lists relating to the Products;

10.7 all the rights and obligations of the Parties under the Agreement shall terminate, except for any rights or obligations to which any of the Parties may be entitled or be subject before its Termination (which shall remain in full force and effect) and except as otherwise provided in Clause 14;

10.8 the Purchaser shall have no claim against the Company for compensation for loss of distribution rights, loss of goodwill or any similar loss, however caused;

11. Programs

In consideration of the payment by the Purchaser to GVS of the full purchase price of the Products and the performance of the other obligations of the Purchaser, GVS hereby grants to the Purchaser a non-exclusive non-transferable licence to use the programs and any user documentation incorporated in or delivered with the Products upon the following terms:

11.1 The Programs will be supplied on such media or via electronic transfer as GVS may think fit.

11.2 The Purchaser shall use the Programs only with the Products (or other Products from time to time supplied by GVS) and only for the Purchaser's business purposes and shall not market or commercialise the Programs in any way.

11.3 The Purchaser may not make any copies of the Programs.

11.4 The Purchaser will not remove any copyright or other notice supplied by GVS with the Programs.

11.5 The Purchaser shall bring to the attention of GVS any infringement by any third person of the intellectual property rights referred to in Clause 13 and shall at the request and expense of GVS take or join GVS in taking all such action as GVS may at its sole discretion decide and require for the purpose of protecting all such rights.

11.6 The Purchaser will not alter, modify or update the Programs nor merge with other computer programs without the prior written consent of GVS.

11.7 The Purchaser will ensure that the Programs are used only in accordance with the Contract and to satisfy itself at all reasonable times that the Programs are so used.

11.8 The Purchaser will not (save so far as necessary in the case of any employee of the Purchaser who uses the Products and then only in confidence);

11.8.1 disclose any details of the method of operation of the Programs to any third party, or

11.8.2 give or lend to any third party any of the Programs in whatever form (or any copy of the user manual or other documentation relating thereto) or

11.8.3 suffer or permit any unauthorised person to copy, take or remove from the premises on which the Programs are used by the Purchaser any of the Programs or the user manual and the Purchaser may not sub-licence or assign or otherwise transfer this licence.

11.9 Upon the Purchaser disposing of the Products to any third party, GVS may at the request and cost of the Purchaser (and if the Purchaser shall have complied with all its obligations hereunder) grant to that third party a licence to use the Programs upon the same terms as are contained in the Contract or as near thereto as the circumstances shall then permit.

12. Indemnity

12.1 GVS will indemnify the Purchaser in respect of any costs and damages awarded against the Purchaser based on an allegation that the Purchaser's use of the Products in the United Kingdom infringes any patent, copyright, design right or other intellectual property rights provided that:

12.1.1 this indemnity shall not apply to any infringement which is due to GVS having followed designs or instructions furnished by the Purchaser or to the use of the Products in a manner or for a purpose not specified or agreed to in writing by GVS, or to any infringement which is due to the use of the Products in association or combination with any other Products not supplied by GVS;

12.1.2 in the event of such proceedings GVS shall have the right at its discretion either to procure for the Purchaser at GVS's expense the right to continue the use of the Products to which such proceedings relate or to modify or replace such Products or if in the opinion of GVS no other reasonable alternative is available to terminate the Contract and re-purchase the Products at the purchase price, less depreciation to be established by GVS taking into account the expected useful life of the Products the duration of the Purchaser's use thereof and then current accounting practice;

12.1.3 GVS is promptly notified in writing by the Purchaser of any claim being made or action threatened or brought against the Purchaser and GVS is given the sole right to defend the proceedings and sole control of any negotiations for settlement or compromise; and

12.1.4 the Purchaser gives at its own expense all reasonable assistance and does not by any act or omission do anything which may directly or indirectly prejudice GVS in this connection.

12.2 Except as aforesaid, GVS shall not be under any liability to the Purchaser where the Products infringes third party intellectual property rights.

13. Intellectual Property Rights

"Intellectual Property Rights" of GVS, means all present and future rights in patents, rights to inventions, trademarks, rights in designs, trade or business names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, copyright and related rights, rights in computer software, database rights, topography rights, rights in know-how, trade secrets, rights of confidence and any other Intellectual Property Right or right of a similar nature anywhere in the world, in each case whether registered or unregistered, whether now known or hereafter invented and including all applications (or rights to apply) for such rights and all extensions, renewals and reversions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

14. Confidentiality

14.1 Each Party undertakes that, at all times during the continuance of the Agreement and for 2 years after the date of Termination:-

14.1.1 keep confidential all Confidential Information;

14.1.2 not disclose any Confidential Information to any other person;

14.2 Either Party may:

14.2.1 disclose any Confidential Information to:-

14.2.1.1 any sub-contractor or supplier of that Party;

14.2.1.2 any governmental or other authority or regulatory body; or

14.2.1.3 any employee or officer of that Party or of any of the aforementioned persons;

to such extent only as is necessary for the purposes contemplated by the Agreement, or as required by law, and in each case subject to that party first informing the person in question that the Confidential Information is confidential and to use it only for the purposes for which the disclosure is made.

14.3 Where the Purchaser passes any Confidential Information to any sub-contractor or supplier of that Party and such sub-contractor or supplier fails to keep this information confidential, they will be held primarily accountable to the Company for any and all losses arising from this breach.

15. Notices and Service

15.1 Any notice (which term shall in this clause include any other communication) which is required to be given under the Conditions or in connection with the matters contemplated by it shall be in writing in the English language.

15.2 Any such notice shall be addressed as provided in by the Purchaser and may be:

15.2.1 personally delivered, in which case it shall be deemed to have been given upon delivery at the relevant address; or

15.2.2 if within the United Kingdom, sent by first class pre-paid post, in which case it shall be deemed to have been given two (2) days after the date of posting; or

15.2.3 if from or to any place outside the United Kingdom, sent by pre-paid priority airmail, in which case it shall be deemed to have been given seven (7) days after the date of posting; or

15.2.4 sent by e-mail and shall be deemed to have been duly given when confirmation of receipt of the email is sent by the Purchaser.

16. Assignment

The Purchaser shall not assign or transfer or purport to assign or transfer the Contract or the benefits thereof to any other person without the prior written consent of GVS.

17. Arbitration

Any dispute, difference or disagreement between the Parties arising out of or in connection with the Agreement shall be settled in London, under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with those Rules.

18. Applicable Law and Jurisdiction

18.1 The law of England and Wales shall apply to the whole of the Agreement.

18.2 The Parties hereby agree to the non-exclusive jurisdiction of the English and Welsh Courts.

19. General

19.1 No alteration or modification of these Conditions or of any Contract shall have effect unless made in writing and signed by or on behalf of the Purchaser and by or on behalf of a Director of GVS.

19.2 Any forbearance of delay on the part of either party in enforcing any provisions of these Conditions or any of its rights hereunder shall not be construed as a waiver of such provisions or a right thereafter to enforce the same.