	[Policies]
	Conditions of Sale
	General Statements

# CONDITIONS OF SALE

## Interpretation

### 1.1 In these Conditions:

**BUYER** - means the person who accepts a quotation of the Seller for the sale of the Goods, or whose order for the Goods is accepted by the Seller.

**CLIENT** - means the employer of the Buyer.

**CONDITIONS** - means the standard terms and conditions of sale set out in this document, and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

**CONTRACT** - means the contract for the purchase and sale of the Goods

**GOODS** - means the goods and services in connection therewith (including any instalment of the goods or any parts for them), which the Seller is to supply in accordance with these Conditions.

**POC** - means the person designated as the 'Point of contact'

**SELLER** - means Evolved IT Solutions Ltd ( Registered England & Wales 6549356)

**SITE** - means the premises at which the Goods are to be supplied and / or installed.

**WRITING** - includes e-mail, telex, text message, cable, facsimile transmission and comparable means of communication.


**1.2** Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

**1.3** The headings in these Conditions are for convenience only and shall not affect their interpretation.

## Basis of the sale

**2.1** The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to, which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made by the Buyer. For the avoidance of doubt where the quotation of the Seller is accepted by the Buyer by e-mail, such acceptance will only take effect after the Seller receives the acceptance.

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 1 of 8


 POWER DATA VOICE FIBRE	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

- 2.2** No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.
- 2.3** The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations that are not so confirmed.
- 2.4** Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5** Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller, shall be subject to correction without any liability on the part of the Seller.

### Orders and specifications

- 3.1** No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until, confirmed in Writing by the Seller's authorised representative by issuing a formal Purchase Order. For the avoidance of doubt where the order is submitted by the Buyer by e-mail, such acceptance will only take effect after the Seller acknowledges by e-mail its receipt.
- 3.2** The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time, to enable the Seller to perform the Contract in accordance with its terms.
- 3.3** The quantity, quality and description of, and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 3.4** If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, which results from the Seller's use of the Buyer's specification.
- 3.5** The Seller reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable statutory or EU requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 3.6** No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller, and on terms that the Buyer shall indemnify the Seller

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 2 of 8

 POWER DATA VOICE FIBRE	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

in full against all loss costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

- 3.7** Only with the prior written approval of the Seller may the Buyer vary any term of the Contract and in which case shall indemnify the Seller in full against all loss costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of the change.
- 3.8** The Buyer and the Seller shall each name a person as their POC for dealing with matters arising under the Contract, and in respect of any changes regarding the Contract. All communications between the Buyer and the Seller regarding the Goods (including without limitation notifications regarding status of Goods, requests for approval, requests for changes in the contract, and responses thereto) shall be made to and by the POC's.


### Price of the goods

- 4.1** The price of the Goods shall be the Seller's quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 4.2** The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3** Except as otherwise stated under the terms of any quotation and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller for the supply and installation of the Goods at the Site described in the quotation.
- 4.4.1** The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.
- 4.4.2** Except where the quotation is described "Delivered Duty Paid" the price is exclusive of any applicable import duties, customs charges or other levies of any kind that the Buyer shall be additionally liable to pay to the appropriate authority.

### Terms of payment

- 5.1** Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods to the Site.

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 3 of 8


 POWER DATA VOICE FIBRE	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

- 5.2** The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice (unless previously agreed in writing by the Seller's Managing Director), and the Seller shall be entitled to recover the price, Notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. In special circumstances, such as with new clients or existing clients whose credit report (provided by our agents) indicates a higher risk or existing clients whose payment history deteriorates, a percentage advance or a full pro forma payment may be required.
- 5.3** If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.3.1** Cancel the contract or suspend any further deliveries or services required under the Contract to the Buyer;
- 5.3.2** Appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
- 5.3.3** Charge the Buyer interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (both before and after any judgement) on the amount unpaid, until payment in full is made.

## Delivery and Completion

- 6.1** Delivery of the Goods shall be made by the Seller delivering the Goods to the Site. The Buyer shall ensure the Site is and remains available to the Seller for the purpose of delivering the Goods and installing them in accordance with the quotation. The Buyer shall indemnify the Seller for any costs incurred through any delay in obtaining access to the Site.
- 6.2** Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3** If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.4** If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 4 of 8

 POWER DATA VOICE FIBRE	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

- 6.4.1** Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 6.4.2** Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
- 6.5** On the day of completion of the installation of the Goods the Seller shall carry out such tests as it shall consider reasonable whether by using its standard methods or specific methods as previously agreed with the Buyer. The Buyer's POC (if on Site) shall on satisfactory completion of the tests sign unqualified acceptance of the Goods, otherwise the Seller shall notify the Buyer in Writing that the tests have been satisfactorily completed.


## Risk and property

- 7.1** Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 7.2** Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 7.3** Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailor, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.
- 7.4** Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.5** The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## Warranties and liability

- 8.1** The Seller warrants to the Buyer that the services specified in the quotation will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the quotation and at the intervals and within the times referred to in the quotation. Where the Seller supplies in connection with the provision of the quotation any Goods supplied by a third party, the Seller does not give any warranty, guarantee or other term as to their quality,

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 5 of 8

 POWER DATA VOICE FIBRE	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

Fitness, for purpose or otherwise, but shall, where possible, assign to the Buyer the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to the Seller. The Seller does not warrant that the Goods when installed will operate without interruption or error.


- 8.2** The Seller shall have no liability to the Buyer for any loss, damage, costs, expenses or other claims for compensation arising from any Goods or instructions supplied by the Buyer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Buyer.
- 8.3** Except in respect of death or personal injury caused by the Seller's negligence, or as expressly provided in these Conditions, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the Seller, its servants or agents or otherwise) which arise out of or in connection with the provision of the services in the quotation, or their use by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the amount of the Seller's charges for the provision of the quoted services, except as expressly provided in these Conditions.
- 8.4** The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the
- 8.5** Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
- 8.5.1** Act of God, explosion, flood, tempest, fire or accident;
- 8.5.2** War or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 8.5.3** Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 8.5.4** Import or export regulations or embargoes;
- 8.5.5** Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- 8.5.6** Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 8.5.7** Power failure or breakdown in machinery.

## **Insolvency of buyer**

- 9.1** This clause applies if:

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 6 of 8




 POWER DATA VOICE FIBRE	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

- 9.1.1** The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 9.1.2** An encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- 9.1.3** The Buyer ceases, or threatens to cease, to carry on business; or Seller's obligations in relation to the quoted service, if the delay or failure was due to any cause beyond the Seller's reasonable control.
- 9.1.4** Any other event which under the law of the country in which the Buyer carries on business would compel the buyer to cease trading; or
- 9.1.5** The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 9.2** If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## Export terms

- 10.1** In these Conditions; Incoterms means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- 10.2** Where the Goods are supplied for export from the UK, the provisions of this clause 10 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 10.3** The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them, and shall indemnify the Seller accordingly.
- 10.4** Unless otherwise agreed in Writing between the Buyer and the Seller, the Goods shall be delivered FCA the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
- 10.5** Where the Goods are supplied for export from the United Kingdom the Buyer shall, in respect of the country where the Goods are to be installed, supply in the English language copies of the relevant building codes and other applicable laws and regulations. If the Seller shall not be able to comply with the said codes, laws and regulations it shall be released from the

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 7 of 8

 <small>POWER DATA VOICE FIBRE</small>	<b>[Policies]</b>
	<b>Conditions of Sale</b>
	General Statements

Contract without liability on its part or recourse by the Buyer, but the Buyer shall reimburse the Seller for its costs incurred up to that time.

- 10.6** Where the quotation so provides the Buyer shall be responsible for arranging for testing and inspection of the Goods at the Sellers premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which are made after shipment, or in respect of any damage during transit.
- 10.7** Payment of all amounts due to the Seller shall be made by inter-bank transfer to the Sellers account with Barclays Bank, Sort Code: 20-42-58, Account No: 13238628, unless otherwise agreed in Writing.

## General

- 11.1** The Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Seller.
- 11.2** Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing, addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 11.3** No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 11.4** If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 11.5** The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.
- 11.6** The Buyer shall serve any notice or process on the Seller at its registered office.
- 11.7** The Buyers POC shall in reasonable time before commencement of the installation of the Goods, supply English language copies of relevant building codes and other applicable laws and regulations.

SIGNED: 

DATED: 11<sup>th</sup> June 2012

Alan Evans  
[Managing Director]

Series:	General	Series & Number	GEN [COS] 08	Issue Date:	Jun 2012
Revision Number	V.02	Revision Date	TBC		Page 8 of 8