



U.K. TERMS OF SALE AND CONSUMER INFORMATION

Last Updated: June 10, 2014

Country:

1. SCOPE & APPLICATION

- 1.1 These terms of sale ("**Terms**") apply to all purchases of products (including, without limitation, hardware and/or software) ("**Products**") or services ("**Services**") which are sold through this website ("**Site**") by: (a) Us, the Seller, Digital River Ireland Ltd., Unit 153, Shannon Free Zone West, Shannon, Co. Clare, IRELAND (references to "us", "we" or "our" being construed accordingly) to (b) you, the purchaser (references to "you" or "your" being construed accordingly).
- 1.2 By placing an order on this Site you agree to abide by these Terms. **If you are a 'consumer'** (purchasing outside the scope of your business), then nothing in these Terms will reduce your statutory rights relating to faulty or misdescribed Products or Services. For further information about your statutory rights contact your local authority Trading Standards Department or Citizens' Advice Bureau.
- 1.3 **If you are a consumer**, you may cancel your order for any reason within 14 calendar days of:
 - 1.3.1 Receipt of Product(s).
 - 1.3.2 Our acceptance of your order for Services. But such right to cancel shall end or not apply where:
 - 1.3.3 You have received all of the Services ordered; or
 - 1.3.4 You unseal or use any Software; or
 - 1.3.5 You receive the download link for a digital Product, where you have been notified during the purchase process and given your consent to your right to cancel ending on receipt of the download link; or
 - 1.3.6 Bespoke or customised Products are made specifically to your order.
- 1.4 To exercise your right to cancel please email us at cancellation_eu@digitalriver.com, you may also use the [Cancellation Form](#).
- 1.5 **If you are a consumer** and exercise the above right to cancel, you must take reasonable care of any Product(s) in your possession and (at your cost), within 14 calendar days of giving the cancellation notice, either: return them to us (or elsewhere if requested by us) or make them available to be collected (as requested by us).
- 1.6 If you have paid in advance, you will be refunded within 14 calendar days of giving the cancellation notice, or in the case of physical Products within 14 calendar days of our receipt of the Product(s) which are returned by you, or if sooner 14 calendar days after we receive proof that the Product(s) have been returned to us.
- 1.7 If you paid any delivery costs (such as postage), associated with the delivery of the Product(s) to you, we will also refund those, except if you chose a delivery option other than the least expensive type of standard delivery offered to you at the time of purchase, in which case we will refund you an amount equal to the cost of the standard delivery.
- 1.8 All costs associated with the return of the Product(s) to us will be born by you and will not be refunded by us.

- 1.9 We may make a deduction from the refund for any loss in value of any Product(s) supplied, if the loss is the result of the handling of the Product(s) by you, other than handling which is necessary to establish the nature, characteristics and functioning of the Product(s). For example if you have used the Product(s) before returning them to us
- 1.10 Where you have ordered Services and exercise your right to cancel after the provision of the Services has commenced then we will deduct from your refund a amount in respect of the Services provided prior to receiving your notice to cancel proportional to the total Services ordered.
- 1.11 If you require more information on your rights, you should contact [customer support](#).

2. OFFER, ACKNOWLEDGMENT AND ACCEPTANCE

- 2.1 Any prices, quotations and descriptions made or referred to on this Site are subject to availability, do not constitute an offer and may be withdrawn or revised at any time prior to our express acceptance of your order (as described below).
- 2.2 While we make every effort to ensure that items appearing on the Site are available, we cannot guarantee that all items are in stock or immediately available when you submit your order. We may reject your order if we are unable to process or fulfil it. If this is the case, we will refund any prior payment that you have made for that item.
- 2.3 An order submitted by you (when you click the 'Buy' button) constitutes an offer by you to us to purchase Products or Services on these Terms and is subject to our subsequent acceptance.
- 2.4 You may receive an automatic e-mail acknowledgement of your order. This does not constitute our acceptance of your order.
- 2.5 Our acceptance of your order takes place when we dispatch your Product or when we agree to provide or a third party service provider begins to provide the Services to you. ("**Acceptance**").
- 2.6 In the case of Services please note that we are not the provider of the Services purchased from the Site. These Services will be provided by either our partner whose name and logo appears on the Site or by third party service providers and your relationship with them may be subject to additional terms and conditions which they will provide to you or require you to agree to before you receive the Service.

3. YOUR REPRESENTATIONS

- 3.1 You should take care to ensure that all information that you provide when placing your order is up to date, accurate and sufficient for us to fulfil your order.
- 3.2 By placing an order you represent that you have legal capacity to enter into a contract.
- 3.3 You should ensure that your account information which is kept with us is accurate and updated as appropriate. Such information (and any passwords given to you for the purposes of accessing the Site and/or purchasing Products) should be kept secure against unauthorised access.

4. PRICE AND TERMS OF PAYMENT

- 4.1 Prices payable for Products or Services are those in effect at the time of Acceptance. Prices may be indicated on the Site or an order acknowledgement but we will notify you of the final sale price at the time of our Acceptance.
- 4.2 We have the right at any time prior to our Acceptance to withdraw any discount and/or to revise prices to take into account increases in costs including (without limitation) costs of any materials, carriage, labour or the increase or imposition of any tax, duty or other levy and any variation in exchange rates. We also reserve the right to notify you of any mistakes in Product descriptions or errors in pricing prior to Product dispatch or Service provision.
- 4.3 If the price of the Product or Service increases or we change the description of the Product or Service between the time that you place your order and the time of our Acceptance, we will notify you, you may cancel your order and you will be given a full refund. If you choose to proceed with your order it will be delivered to you in accordance with the revised description and/or at the increased price.
- 4.4 The places that we deliver to are listed on the Site ("**Territories**"). Unless otherwise specified, prices indicated are
- 4.4.1 Exclusive of the costs of shipping or carriage to the agreed place of delivery

w ithin the Territories (charges for delivery are stated on the Site); and

4.4.2 Exclusive of VAT and any other tax or duty w hich (w here applicable) must be added to the price payable;

4.5 Payment for shipping and applicable VAT or other tax or duty must be made prior to dispatch and by such methods as are indicated on the Site.

4.6 We w ill charge credit or debit cards on dispatch of the Product or commencement of Services. We reserve the right to verify credit or debit card payments prior to Acceptance. Methods of payment accepted by us can be found on the Site.

4.7 **If you are a business customer** (purchasing w ithin the scope of your business) w e may agree to invoice you in advance, or extend credit for the purchase of Products and/or Services from the Site. In such cases the follow ing Terms shall apply to you:

4.7.1 Where the payment is invoiced, each invoice shall be due on and made in full w ithin thirty (30) days of the date of relevant invoice. If at any time you fail to pay any amount due on the relevant due date, w e may by notice declare all invoiced amounts unpaid at that date to be immediately due and payable.

4.7.2 No counterclaim or set-off may be deducted by you from any payment due w ithout our w ritten consent. We may also take action against you for the price of Products at any time after payment has become due even though property in those Products may not yet have passed to you.

4.7.3 Any extension of credit allow ed to you may be changed or w ithdraw n at any time. You shall indemnify us on demand against any out of pocket expenses incurred in relation to recovery of any overdue amounts.

5. TERMINATION

If you become bankrupt or insolvent or enter into a voluntary arrangement w ith creditors or you take any similar action or such action is taken against you in relation to your debts; or you fail to pay any amount by the due date, w e may, in respect of any Products or Services for w hich payment has not already been received by us:

5.1 Stop any Products in transit; and/or

5.2 Suspend further Product deliveries; and/or

5.3 Stop or suspend provision of Services; and/or

5.4 By w ritten notice terminate your order and all or any other contracts betw een us and you.

6. DELIVERY AND RISK

6.1 Delivery timescales/dates specified on the Site, in any order acknow ledgement, Acceptance or elsew here are estimates only. We w ill aim deliver the Products or commence provision of the Services w ithin a reasonable time. **If you are a consumer** this shall in any case be w ithin 30 days from w hen you place your order. If w e are unable to do so and **if you are a consumer** w e w ill give you the opportunity to cancel your order.

6.2 Delivery shall be to a valid address w ithin the Territories submitted by you and subject to Acceptance ("**Delivery Address**"). You should check the Delivery Address on any acknow ledgement or acceptance w e provide and notify us w ithout delay of errors or omissions. We reserve the right to charge you for any extra costs arising from changes you make to the Delivery Address after you submit an order w here changes are necessary as a result of your error in inputting the Delivery Address. Changes that you make to the Delivery Address after submitting an order may cause a delay in the delivery of your order.

6.3 If you refuse or fail to take delivery of Products provided in accordance w ith these Terms, the Products shall nonetheless become your property and:

6.3.1 You shall be responsible for all costs of Product storage and any additional costs incurred as a result of such refusal or failure to take delivery;

6.3.2 We shall be entitled 30 days after the agreed date for delivery to dispose of Products and we may charge you for any costs associated with this.

6.4 **If you are a business customer** and where we deliver Products by installments, each installment constitutes a separate contract and any defect in any one or more installments shall not entitle you to cancel the contract as a whole nor to refuse to accept any subsequent installment.

6.5 Save as otherwise provided in these Terms, risk of loss of or damage to the Products passes to you on delivery or when placed in your possession or collected by any carrier or transport provided by you.

7. REJECTION, DAMAGE OR LOSS IN TRANSIT

7.1 You should carefully check Products upon delivery to ensure that they are in satisfactory condition, in accordance with their description and complete. You may return purchased Products in accordance with these Terms or any applicable Returns Policy referred to on the Site where:

- (a) Products or any part thereof have been damaged or lost in transit. Provided that **if you are a business customer** you have notified us about this damage or loss within 5 working days of receipt of the Products;
- (b) there are defects in Products (not being caused by your use of the Products outside their intended or recommended use or outside manufacturer's instructions). Provided that **if you are a business customer** you have notified us about this defect within 30 working days of receipt of the Products;
- (c) Services have been performed without due care and skill. Provided that **if you are a business customer** you have notified us within 5 days of such defect becoming apparent; or
- (d) the Products or Services do not match their description. Provided that **if you are a business customer** you have notified us within 5 days of such defect becoming apparent.

7.2 We shall not be responsible for any damage or losses: arising from defective installation of the Products by you; from the use of the Products in connection with other defective, unsuitable or defectively installed equipment which has not been supplied by us; your negligence; improper use of the Products or use in any manner inconsistent with the manufacturer's specifications or instructions, and you shall not be entitled to return Products which have been damaged in this way.

7.3 Where we fail to deliver all or part of your order, or there is any defect in or damage to a Product or Service or it does not comply with the description of the Product or Services found on the Site or notified to you we may at our option (**if you are a business customer**) or at your option (**if you are a consumer**):

- (a) Make good any such shortage or non-delivery and/or
- (b) Re-perform a defective Service or provide a refund of the price paid for the defective Service; and/or
- (c) In the case of damage or any defect(s) in the Product:
 - (i) Where possible replace or repair the Product at our cost; or;
 - (ii) Refund the price paid in respect of any Products found to be damaged or defective, including any delivery costs

8. SOFTWARE

Where any Product supplied is or includes software ("**Software**"), this Software is licensed by us or by the relevant licensor/owner subject to the relevant end-user licence agreement or other licence terms included with Software ("**Licence Terms**") and/or the Product. In addition:

8.1 **If you are a business customer** your rights of return and/or to a refund under these Terms and any applicable Returns Policy do not apply in the event that you open the Software shrink-wrap, break the license seal or use the

Software.

- 8.2 **If you are a business customer** and except to the extent expressly provided by us in writing or under relevant License Terms, Software is provided 'as is' without any warranties, terms or conditions as to quality, fitness for purpose, performance or correspondence with description and we do not offer any warranties or guarantees in relation to Software installation, configuration or error/defect correction. You are advised to refer to any License Terms with regards to determining your rights against a manufacturer, licensor or supplier of the Software.

9. LIABILITY LIMITATION

- 9.1 Our liability under these Terms (whether for negligence, breach of contract, misrepresentation or otherwise) shall be limited to the price payable for the Products or Services which are the subject of that order.
- 9.2 **If you are a consumer** in addition to our liability under 9.1 above we will also be liable to you for losses that you suffer which are a foreseeable consequence of us breaching these Terms. Losses are foreseeable where they could be contemplated by you and us at the time of Acceptance.
- 9.3 In no case shall we be liable for incidental, indirect, or consequential damages; or any loss of income, revenue, profits, contracts, data, goodwill or savings.
- 9.4 Subject to any express provisions to the contrary set out in these Terms, all terms, conditions, warranties and representations (express or implied by statute, common law or otherwise) are hereby excluded.
- 9.5 In no case do we seek to exclude our liability for (1) death or personal injury caused by our negligence (or that of our employees or authorised representatives); (2) fraud; (3) any breach of any obligation as to title to the Products implied by statute; or (4) any other liability which cannot as a matter of law be limited or excluded.

10. RETENTION OF TITLE

- 10.1 **If you are a business customer** and Products are delivered to you on credit or where you are to pay us by invoice and in either case we deliver the Products to you without having first received payment the following Clauses 10.2 to 10.4 shall apply.
- 10.2 Title to Products in any one order shall not pass from us to you until payment in full of the price payable in respect of such order (including any interest or other payments due in respect of those Products). Until payment has been made in full for any Products, you shall have possession of those Products as our agent and shall (subject to the provisions of 10.3 below) store the Products in such a way as to enable them to be readily identified as our property, and keep proper and accurate records to enable us to distinguish Products for which payment has been made in full from those Products for which payment is outstanding.
- 10.3 If you sell any Products, to the fullest extent permitted by law, you shall hold (on a fiduciary basis) all proceeds of such sales in trust for us and in a separate account. You undertake immediately upon being so requested by us to assign to us all rights in respect of those proceeds and that separate account and/or all rights and claims which you may have against any customers arising from such sales until payment is made in full as aforesaid and not to assign such rights and claims to any third party without our prior written consent.
- 10.4 We reserve the right to repossess any Products in respect of which payment is overdue, declined or lapses and thereafter to re-sell the same and for this purpose, you hereby grant us an irrevocable right and licence to our servants and agents to enter upon your premises during normal business hours.
- 10.5 **If you are a consumer** we will only dispatch Products to you once we have received payment in full for the Products.

11. THIRD PARTY RIGHTS

You shall be responsible for and reimburse us for all expenses which we suffer liabilities, arising as a result of our performing Services or carrying out any work on or to the Products to your specific requirements or specifications which you have requested in the Products or Services

which including for example where any third party brings a claim or action against us alleging infringement of its proprietary rights.

12. WARRANTY

- 12.1 All Product specifications, illustrations, drawings, particulars, dimensions, performance data and other information on the Site or made available by us are intended to represent no more than a general illustration of the Products and do not constitute a warranty or representation by us that the Products will conform with the same. You must refer to the manufacturer's specifications or warranty documentation to determine your rights and remedies in this regard.
- 12.2 You may have the benefit of a manufacturer's, licensor's or supplier's warranty with the Products supplied and you should refer to the relevant documentation supplied with the Product or Service in this regard. (If applicable, a Returns Policy may also set out procedures applicable to repairs or replacement of defective Products delivered.)
- 12.3 **If you are a business customer**, your rights of repair or replacement of any Products or any part or parts thereof which are found to be defective will (except where agreed otherwise) not apply where:
- 12.3.1 Products have been repaired or altered by persons other than the manufacturer, us or any authorised dealer;
 - 12.3.2 defective Product or Products have not been returned together with full details in writing of the alleged defects within 30 working days from the date on which such Products were delivered;
 - 12.3.3 defects are due (wholly or partially) to mistreatment, improper use or storage or maintenance or installation, or failure to observe any manufacturers' instructions or other directions issued or made available by us in connection with the delivered Products.

13. CONSENTS, CUSTOMS DUTIES & EXPORT

- 13.1 If any licence or consent is required for your acquisition, delivery or use of the Products, you shall obtain such licence or consent at your own expense and if necessary produce evidence of having done so to us. **Where you are a business customer** and you have failed so to do so you shall not be entitled to withhold or delay payment. Any additional expenses or charges incurred by us resulting from your failure to obtain any necessary licence or consent shall be met by you.
- 13.2 Products licensed or sold to you under these Terms may be subject to export control laws and regulations in your country or in the country from which they are to be shipped, delivered or used. You shall be responsible for complying with any such laws.
- 13.3 **Where Products over a certain value are shipped from outside the European Economic Area (EEA) (for example where their value is deemed to be in excess of your personal import allowance), you may be subject to customs charges, import duties and taxes, levied when the Product reaches your specified destination. Any such additional charges for customs clearance or import duties or taxes must be met by you. You should contact your local customs office for further information on customs policies or duties.**

14. NOTICES

If you wish to contact us for any reason in connection with these Terms you may do so using the contact details set out in clause 1.4 above.

15. PERSONAL INFORMATION AND YOUR PRIVACY

- 15.1 We comply with all data protection laws and will use data which could be used to identify you personally ("**Personal Data**") only as set out in our [Privacy Statement](#) ("**Privacy Statement**").
- 15.2 In relation to security of orders that you place with us:
- 15.2.1 If your bank or card issuer holds you liable for charges in relation to unauthorised use of your debit or credit card, connected with the use of your credit or debit card on our Site we will cover your liability up to £50.00 (UK sterling) provided that the unauthorised use of your credit or debit card was not caused by your own fraud or negligence (or by someone acting with your

authority).

16. GENERAL

- 16.1 You may not transfer your rights under these Terms to anyone else without our prior written consent.
- 16.2 You recognise that there may be circumstances outside our reasonable control which would prevent us from providing you with the Products or Services which you have ordered. Circumstances beyond our reasonable control may include (but are not limited to) any act of God, war, riot, civil commotion, government action, explosion, fire, flood, storm, accident, strike, lock-out, trade dispute or labour disturbance, breakdown of plant or machinery, interruption in the supply of power or materials. In such cases, whilst we will do our best to fulfil your order, we cannot be responsible for failure or delay in doing so and in such event we may elect to cancel your order and refund any payments made. You may request that your order be cancelled if it has not been fulfilled within 30 days of having been made.
- 16.3 These Terms set out all of our obligations in relation to the provision of Products and Services to you under any accepted order. These Terms prevail over any other terms or conditions referred to elsewhere or otherwise implied. We reserve the right to modify these Terms from time to time and any order will be subject to the Terms that are in place at the time that your order is accepted.
- 16.4 No delay by either you or us in enforcing any of these Terms shall restrict the rights that either of us has under them.
- 16.5 No waiver of any term or condition of these Terms shall be effective unless made in writing and signed by us.
- 16.6 If a court of competent jurisdiction finds that any provision or portion of these Terms to be illegal, unenforceable, or invalid the remainder of these Terms (to the fullest extent permitted by law) will continue in full force and effect.

17. GOVERNING LAW AND JURISDICTION

- 17.1 These Terms shall be governed by English Law and we both agree to the non exclusive jurisdiction of the courts of England over the Terms and any matter related to them, and all proceedings shall be conducted in English.
- 17.2 **If you are a consumer** and you live outside the UK you may be entitled to bring court proceedings in your own language and in your local courts, a local consumer advice organisation will be able to advise you of your rights.