

# Credit Account Application Form



Account Manager: \_\_\_\_\_

Trading Name:		Trading Since:	
Address:			
Postcode:			
Main Telephone:		Main Fax:	
Accounts Telephone:		Accounts Fax:	
Registered Office:			
Company Registration Number:		Registered Date:	
Directors / Partners:			

<b>Bank Details:</b>			
Address:			
Postcode:			
A/C No:		Sort Code:	
Contact:		Tel No:	
Reference 1:		Reference 2:	
Address:		Address:	
Postcode:		Postcode:	
Contact:		Contact:	
Tel No:		Tel No:	
<b>We hereby agree to your terms and conditions of payment within 30 days of invoice</b>			
Signature:		Name & Position:	Date:

# TERMS AND CONDITIONS OF TRADE

## 1. DEFINITIONS

"The Company" means Axess Systems Ltd

"The Customer" means any third party to whom the Company may agree to sell goods in accordance with the Company's standard conditions of sale.

"The Goods" means the articles or things or any of them or any part or parts of them to be provided by the Company in accordance with the Company's standard conditions of sale.

## 2. GENERAL

All orders are accepted and goods supplied to the following express terms and conditions (the Company's standard conditions of sale) and save to the extent that the exclusion or restriction of liability may be prohibited by statute, all other conditions, warranties and representations, expressed or implied and statutory or otherwise, except as to title, are hereby excluded. Any order placed by a Customer shall constitute an offer to contract upon these express terms and conditions and no addition thereto or variation therefrom whether contained in the Customer's order, or otherwise shall apply unless expressly agreed in writing by a Director of the Company.

## 3. ORDERS

All orders are subject to availability of the goods and to written acceptance by the Company's authorised representative. Any prior confirmation by the Company by facsimile or telephone shall be deemed to be provisional only. The Customer agrees to send to the Company a written order in confirmation of any telephoned orders duly marked with any confirmation reference given by the Company; otherwise the Company cannot accept liability for any duplication of delivery that may occur. Cancellations or amendments of orders are subject to a charge, as stated in clause 14b.

## 4. PRICES

(a) Catalogues, price lists and other advertising literature or materials as used by the Company are intended only as an indication of price and range of goods offered and no prices, descriptions or other particulars contained therein shall be binding on the Company.

(b) All quoted or listed prices are exclusive of Value Added Tax or any other taxes unless expressly stated otherwise and are based on the cost to the Company of supplying the Goods to the Customer. If before the delivery of Goods there occurs any increase in any way of such costs in respect of Goods which have not yet been delivered the price payable shall be subject to amendment without notice at the Company's discretion.

## 5. MANUFACTURER'S SPECIFICATION

The Company will not be liable in any respect for any loss or damage caused by or resulting from any variation for whatever reason in the Manufacturer's specifications or technical data and will not be responsible for any loss or damage resulting from curtailment or cessation of supply following such variation. The Company will endeavour to advise the Customer of any such impending variation as soon as it receives notice thereof from the Manufacturer.

## 6. CARRIAGE AND DELIVERY

Unless expressly stated otherwise prices do not include delivery charges to the Customer, and the Company reserves the right to levy a charge for delivery to any destination advised by the Customer.

## 7. PASSING OF RISK AND PROPERTY

(a) Risk in the Goods shall pass to the Customer on delivery.

(b) Property in the Goods shall remain in the Company until payment in full thereof has been made by the Customer.

(c) If payment in full is not made in accordance with the Company's standard conditions of sale the Company may require the Customer to return the Goods forthwith and if the requirement is not immediately complied with the Company shall be entitled at any time and without notice to retake possession of the whole or any part of the Goods (and for that purpose to enter the premises occupied by the Customer and sever the Goods from anything they are attached to without being responsible for any damage thereby caused) without prejudice to any other remedy that may be available to the Company.

## 8. DEFECTS AND USE

Save as herein expressly provided and save to the extent that the exclusion or restriction of liability may be prohibited by statute, the Company shall not be liable for any loss of whatsoever nature to whomsoever or whatsoever caused arising out of the use of the Goods. The Customer shall indemnify the Company against all claims made against the Company by any third party in respect thereof, unless otherwise agreed:

(a) Where the Goods are rejected by the Customer for whatsoever reason, the Company will only accept return of such Goods provided that it receives written notice thereof within 14 days of receipt of the Goods and provided that the Goods are returned to the Company within the same 14 days. Any refunds will be made at the Company's discretion less the amount incurred by the Customer for the delivery/carrriage charges both to the Customer from the Company and to the Company from the Customer. All Goods returned must include all original packing and manuals and must be returned in the same condition that it was despatched to the Customer. Any damage or loss to either the Goods, packaging or manuals will affect the amount of refund to be made.

(b) In the case of defects or faulty workmanship in the Goods or any part thereof the Customer shall not be entitled to receive any compensation, credit or refund in excess of that received by the Company under any guarantee or warranty given to it by the Manufacturer or supplier thereof.

## 9. GUARANTEE

In respect of Goods the subject of any warranty or guarantee given by the Manufacturers of the same, the Company guarantees to the Customer that such Goods will be free from defects caused by faulty materials or poor workmanship for a period of two years. Under this warranty the Company will, at its option, either repair or give a replacement of equivalent quality or issue credit to the Customer for any Goods found to be defective because of faulty maintenance by the Company or poor workmanship provided that

(i) the Company is notified in writing within 7 days of the Customer first discovering any such defects;

(ii) the Goods have been used in an appropriate manner and/or as prescribed in the operating instructions (if any);

(iii) the defective Goods are returned to the Company at the Customer's expense;

(iv) examination by the Company of such Goods discloses to its satisfaction that such defects exist and have not been caused by misuse, neglect, accident, improper storage, installation or handling or by repair or alteration not effected by the Company;

(v) the Goods not having been modified or repaired otherwise than by the Company or otherwise interfered with; and

(vi) the Customer shall pay to the Company the cost (as certified by the Company) of any examination of such Goods as a result of which the Company denies liability.

## 10. RETURN OF EQUIPMENT

Goods will not be accepted by the Company until a Return Material Authorisation (RMA) number is obtained and the Goods have been returned to us at the Customer's expense. All Goods must be returned in good condition and together with all parts and instruction manuals pertaining to the Goods which are being returned.

## 11. EXCLUSION OF LIABILITY

(a) Except where provided otherwise in these Conditions, the Company shall be under no liability of whatsoever kind howsoever caused whether or not due to the negligence or wilful default by the Company or its servants or agents arising out of or in connection with the Goods. All conditions, warrants or other terms, whether express or implied, statutory or otherwise, are hereby expressly excluded providing that nothing in this paragraph shall exclude or restrict any liability of the Company or its servants or agents.

(b) In any event, the Company's liability shall be limited to direct loss and shall not include indirect or consequential loss.

(c) The Company shall not be liable for the loss of or damage to software programs and/or data stored on hard or floppy disks, repair or upgrade of any goods whether or not the same are under warranty.

## 12. PAYMENT

(a) Punctual payment is the essence of the Contract. Provided that the Customer has been granted credit facilities by the Company, settlement terms are by 30 days following date of invoice. In the absence of credit facilities having been granted by the Company, payment shall be in advance.

(b) The Company reserves the right to suspend deliveries where payment is not received in accordance with paragraph (a) of this clause or in accordance with any alternative terms of payment agreed in writing.

(c) Where payment is not made in accordance with the terms of sub-clause (a) above, the Customer shall pay interest on any unpaid amounts calculated at 5% above Yorkshire Bank Plc's base rate for the time being in force. Interest charges will be calculated on a daily basis.

## 13. DESPATCH

Any times quoted for despatch are to be treated as estimates only and without prejudice, although every endeavour will be made by the Company to adhere to them. Quotations or offers of Goods ex stock are subject to the Goods being unsold at the time of receipt of the Customer's written order. All despatch dates are calculated from the date of acceptance of the Customer's written order.

## 14. CUSTOMER'S DEFAULT AND CANCELLATIONS AND RE-SCHEDULING OF DELIVERIES

(a) If the circumstances or statutes of the Customer changes, for whatever reason, (e.g. bankruptcy or receivership, change of name, litigation by the Company or other parties etc.) the Company reserves the right without prejudice, to cancel or suspend trading with the Customer including orders in progress and to demand immediate settlement in full of all outstanding invoices.

(b) Requests by a Customer for cancellation or amendment of any order or for the rescheduling of deliveries will only be considered by the Company if made in writing and shall be subject to the written acceptance of the Company or if cancelled or rescheduled at the request of the Customer, then the Customer shall indemnify the Company against all loss, costs (including the cost of labour and materials used and overheads incurred), damages, charges and expenses arising out of the order. The cancellation, amendment or re-scheduling of an order will be calculated at 5% of the value of the order with a minimum of 30 UK pounds.

**15. FORCE MAJEURE**

The Company shall not be liable for the cancellation by it of any order or any unfulfilled part thereof or for effecting partial delivery if performance by the Company is prevented or delayed, whether directly or indirectly, by any cause beyond the reasonable control of the Company, whether such cause existed or was foreseeable at the date of acceptance of the Customer's order by the Company.

**16. NON-STANDARD GOODS**

Unless otherwise agreed the Goods are supplied in accordance with the Manufacturer's standard specification. The Company reserves the right to increase its quoted or listed price or to change accordingly in respect of any orders accepted for products of non-standard specifications and in no circumstances will it consider cancellation of such orders or the return of the Goods.

**17. SEVERABILITY**

If and to the extent that any provision or any part of the provision of the Company's standard conditions of sale is illegal, void or unenforceable for any reason, then such provision or part thereof (as the case may be) shall be deemed to be severable from the remaining provisions or parts of the relevant provision (as the case may be) all of which remaining provisions shall remain in full force and effect.

**18. WAIVER**

The waiver by the Company or any breach of any term hereunder shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

**19. SOFTWARE**

- (a) All software, including related documentation, is supplied under licence of the applicable propriety owner. TITLE OR OWNERSHIP TO SOFTWARE DOES NOT TRANSFER TO THE CUSTOMER UNDER ANY CIRCUMSTANCES.
- (b) It is the sole responsibility of the Customer to comply with any terms and conditions of license attaching to software supplied and delivered by the Company and the Customer is hereby notified that failure to comply with such terms and conditions could result in the Customer being refused a software license or having the same revoked by the propriety owner.
- (c) All software delivered hereunder is supplied "as is" and the sole obligation of the Company in connection with the supply of software is to obtain and supply a correct version from the manufacturer concerned. In the event such software fails to conform to its product description or proves in any other way to be defective, PROVIDED ALWAYS that the Customer notifies the Company of any defect or non conformance to product description within thirty days of the date of delivery, the company will replace the defective software.

**20. INDEMNITY**

- (a) The Company will indemnify the Customer for direct physical injury or death caused by defects in the equipment sold to the Customer or by the negligence of The Company's employees in connection with the performance of their duties under this Agreement.
- (b) The Company will indemnify the Customer for direct damage caused to property caused by defects in the equipment sold to the Customer or by the negligence of its employees in connection with the performance of their duties under the Agreement. The total liability of the Company under this sub-clause shall be limited to £1,000,000 for any one event or connected events.
- (c) In no event shall the Company be liable for indirect or consequential expenses incurred or damages including but not limited to damages caused by loss of data and except as stated in (a) and (b) above, the Company disclaims all liability to the Customer for any losses incurred by the Customer as a result of any negligence or other tortuous act by the Company, its employees or agents.

**21. ASSIGNMENT**

The Customer agrees not to assign or transfer this Agreement or any of its rights herein without the prior written consent of the Company.

**22. JURISDICTION**

This Agreement shall be governed by and construed in accordance with English law and the Courts of England shall have jurisdiction to hear all disputes arising in connection with the Agreement.

**We hereby agree to your terms and conditions of trade:**

**Signed**.....

**Name and Position**.....

**Date**.....