
General terms & conditions

These are the general terms & conditions for delivery of Solutions and/or services from RealFiction (herein after "Contract").

SCOPE OF DELIVERIES

1.0 General

1.1 Subject to the terms of this Contract Realfiction shall deliver the agreed number of Solutions at the Designated Site.

2.0 Hardware and Other Third Party Products

2.1 Realfiction shall if required facilitate the delivery of hardware products, information about (i) product name, (ii) number of units, (iii) purchase price, (iv) place of delivery and (v) preferred date of delivery.

2.2 Within the agreed deadlines the CUSTOMER shall sign any document or order form(s), which must be signed in order to place an order and/or to execute the purchase of the hardware.

2.2 The CUSTOMER is responsible for the due payment of all invoices from Realfiction concerning the purchase and delivery of the items.

3.0 Maintenance and Support for Hardware

3.1 Maintenance and support for hardware is provided only by the relevant third party supplier in accordance with the applicable third party maintenance and support policy, if any, and shall be of no concern, whatsoever, to Realfiction.

4.0 CONSULTANCY SERVICES

4.1 Realfiction may agree to render Consultancy Services to the CUSTOMER on an "as needed" basis. Consultancy Services are subject to the then applicable hourly charge rate(s) of Realfiction.

5.0 DELIVERY AT THE DESIGNATED SITE(S) AND TESTING OF THE SOLUTION

5.1 Realfiction shall deliver the Solution(s) at the Designated Site in accordance with the Date of Delivery.

5.2 The Designated Site is Realfiction's address.

5.3 All risks of accidental damage or destruction of a Solution - or any parts thereof - shall pass to the CUSTOMER upon physical delivery at the Designated Site.

6.0 PRICES, AND PAYMENT TERMS, REIMBURSEMENT OF COSTS

6.1 The prices and payment terms, which the Parties have agreed to, are shown and detailed in a additional Schedule - Prices and Payment Terms.

6.2 All amounts due to Realfiction shall be paid by the CUSTOMER upon delivery and following the receipt of an invoice from Realfiction.

6.2.1 Invoices, which are not settled in due time, shall attract penalty interest at a rate of 5 percent for each month that has commenced. In the event that an invoice issued by Realfiction is partly disputed by the CUSTOMER the non-disputed part of the invoice must be settled in due time. The disputed part of the invoice shall attract interest in accordance with this Clause 6.2.1.

6.2.2 If the CUSTOMER fails to settle an invoice from Realfiction in due time, Realfiction shall give written notice to the CUSTOMER. If the CUSTOMER fails to remedy the delay in payment within three (3) Working Days, Realfiction shall have the right to immediately suspend further works and deliveries, until payment has been made.

6.2.3 The CUSTOMER shall reimburse Realfiction for all reasonable expenses, which Realfiction has paid in connection with rendering Consulting Services to the CUSTOMER at locations outside Realfiction's ordinary place of business, including, but not limited to, costs of travel, meals and accommodation, costs of communication and the like.

6.2.4 As an addition to all amounts payable by the CUSTOMER according to this Contract the CUSTOMER shall pay all taxes and duties, which are levied and payable as a result of - or otherwise related to - this Contract and/or the delivery by Realfiction of the Solution or the Consultancy Services, inclusive, but not limited to, customs duties, sales taxes, value added taxes, license taxes and taxes levied on consumption and any substitutes for such taxes and duties, and which rightfully have been paid by or are or will become payable by Realfiction, but exclusive of income taxes levied on Realfiction's taxable income.

7.0 LICENSE TO USE AND TITLE TO THE SOLUTION

7.1 Realfiction grants the CUSTOMER a non-exclusive license to utilize the Patent in relation to the professional use of each Solution in accordance with the terms of this Contract.

7.2 All legal and beneficial title, ownership rights and intellectual property rights in and to the conceptual knowledge and know-how embedded in the Solution remain with Realfiction and/or its affiliates and suppliers as the case may be.

7.3 The CUSTOMER acknowledges that the conceptual knowledge and know-how embedded in the Solution has been developed by Realfiction and/or its affiliates as valuable trade secrets and agrees to preserve the confidential nature of the proprietary and trade secret information by retaining and using the Solution in trust and confidence. The CUSTOMER agrees not to permit the use of the Solution, or disclosure of such information to, any unauthorized persons or any party not subject to the confidentiality provisions herein. The CUSTOMER agrees not to copy or modify the Solution or to replace any equipment or item forming part of the Solution without the prior written approval of Realfiction. No changes, additions or alterations to the Solution, however extensive, shall reduce Realfiction's title to them.

7.4 Realfiction shall have the right to use and utilize the general knowledge and know-how, which Realfiction has obtained and gained from performing this Contract. Realfiction shall have the right to use such knowledge and know-how to develop and improve the Solution or to develop new or similar solutions and installations to other customers.

8.0 DELAY IN DELIVERY

8.1 In the event that delay in delivery, for which Realfiction is responsible, continues for more than five (5) Working Days Realfiction shall immediately prepare and submit a realistic proposal to the CUSTOMER for revision of the Delivery Date and the Parties shall in good faith negotiate and agree to such revision. If the delay continues without being resolved for twenty-five (25) calendar days or more the CUSTOMER shall have the right to terminate the Contract pursuant to Clause 14.1 (iii) hereof.

8.2 In the event that delay in delivery is caused by circumstances for which a third party supplier is responsible, Realfiction shall have the right to make an adjustment to the Delivery Date to fully eliminate all occurred and threatening adverse effects from such delay.

9.0 DEFECTIVE DELIVERY

9.1 The CUSTOMER shall within 5 business days notify Realfiction in writing, if a defect to a Solution has occurred. The CUSTOMER's notification shall include a detailed account of the defect and - in case of a Material Defect - information about its characteristics and the impact from it on the functionality or the features of the Solution.

9.2 The CUSTOMER shall provide the assistance to Realfiction as Realfiction may reasonably request in order for Realfiction to verify - and to remedy - detected defects to the Solution.

9.3 In case of a Material Defect Realfiction shall initiate and take adequate measures to clarify, remedy and repair the Material Defect without undue delay.

9.4 Clause 9.1 through Clause 10.3 shall not apply to any error or malfunction in a Solution, which originates from, is attributable to or is directly caused by errors or malfunctions in any hardware or other third party product.

10.0 REPRESENTATIONS AND WARRANTIES

10.1 Subject to the limitations in liability provided for in Clause 9.2, Clause 9.4, Clause 10.3, Clause 11.2 and Clause 12.0, Realfiction represents that the Solution(s) will perform substantially in accordance with the applicable specifications.

10.2 Realfiction, however, does not warrant that a Solution will be uninterrupted or completely error-free in operation.

10.3 The CUSTOMER acknowledges and accepts that there are no express or implied warranties, including those of merchantability or fitness for a particular purpose.

11.0 INDEMNIFICATION

11.1 General Indemnification

11.1.1 Subject to the limitations in liability provided for in Clause 12.0 hereof, either Party agrees to indemnify and hold the other Party harmless from and against any Loss resulting from, relating to or caused by a material breach of this Contract committed by or attributable to the first Party.

11.2 Indemnification for Infringement

11.2.1 Realfiction maintains that, to the best of its knowledge, the Solution(s) will not infringe upon or violate any patent, copyright, trademark, trade secret or other proprietary right of any third party.

11.2.2 Realfiction will defend or settle, at its own expense, any claim against the CUSTOMER provided (a) the Solution is used within the scope of this Contract; (b) the CUSTOMER has promptly notified Realfiction in writing after receiving notice of any such claim of infringement; (c) Realfiction shall have sole control of the defence of any action and all negotiations for its settlement; and (d) the CUSTOMER shall provide reasonable assistance to Realfiction in the settlement of any such claim,

11.2.3 Subject to the limitations provided for in Clause 12.0 hereof Realfiction agrees to indemnify the CUSTOMER against any Loss or liability from any damages finally awarded against the CUSTOMER. Realfiction shall not be liable for any costs or expenditures incurred by the CUSTOMER without Realfiction's prior written consent.

11.2.4 The remedies provided for in this Clause 11.2 are the only and exclusive remedies granted to and available to the CUSTOMER in case the Solution(s) - or parts thereof - infringes upon or violate any rights of any third party.

12.0 LIMITATION OF LIABILITY

12.1 Realfiction shall not be liable for

- (i) any Loss that is contingent, or covered by a policy of insurance covering the CUSTOMER or the Solution and payment is due under such policy by the insurer; or
- (ii) any Loss, if and to the extent such Loss originates from, is attributable to or directly caused by errors in third party product, or
- (iii) any Loss, if and to the extent such Loss is attributable to third party product infringing upon or violating any patent, copyright, trademark, trade secret or other proprietary right of any other third party, or
- (iv) any indirect, incidental or consequential damages or lost profits.

13.0 FORCE MAJEURE

13.1 A Party shall not be liable for any delays or errors in delivery, which have been caused by extraordinary circumstances outside the Party's control (i.e. force majeure / acts of God).

14.0 MISCELLANEOUS

14.1 Notices

14.1.1 All notices and other communications by either Party shall be in writing to the other Party and shall be deemed duly given when delivered by e-mail, mail or by express courier service or other reliable courier service or by telecopy addressed to the Parties on the addresses stated in the heading of this Contract.

14.2 Assignment

14.2.1 Neither Party shall assign this Contract or any part hereof without the written consent of the other Party, provided, however, that Realfiction may assign and transfer this Contract to one or more of its affiliates, but only if such assignment will not in any way delay the delivery or otherwise adversely affect the performance of this Contract.

14.3 Entire Agreement

14.3.1 This Contract (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings and agreements between the Parties relating to its subject matter.

14.4 Choice of Law and Venue

14.4.1 This Contract shall be governed by and construed in accordance with the internal law (and not the law of conflicts) of the Kingdom of Denmark.

14.4.2 The exclusive venue for any dispute arising under this Contract or from its interpretation shall be the Courts of Copenhagen in the Kingdom of Denmark.