

PervasID Terms and Conditions

1. General

1.1 The following terms and conditions shall apply to any Buyer for the sale of any products or services by PervasID Ltd. The Buyer herein, agrees to be bound by the terms and conditions of this Agreement. This Agreement is effective as of the purchase date for the PervasID product.

1.2 PervasID products may include a RFID DAS 9000 reader, Pervasilog software, cables, power supplies, antennas and other accessories supplied as part of an RFID DAS 9000 reader product. Hereby the Buyer agrees that the PervasID Products shall only be used for the Buyer's internal purposes and are not permitted to be resold or distributed for other applications without entering into a separate agreement with PervasID.

1.3 The Buyer herein, agrees not to copy, modify, disassemble, and attempt to gain access to logic, structure and design or reverse engineer any part of the PervasID products.

1.4 The Buyer herein, agrees not use a PervasID product in any system wherein a product malfunction could reasonably be expected to cause personal injury or death or property or environmental damage.

1.5 The Buyer acknowledges and agrees that all supplied accessories such as antennas, cables and power supplies are intended solely for use with PervasID RFID DAS reader. Further, the Buyer accepts, and PervasID disclaims, all liability associated with any such unauthorised use. The Buyer should follow the instructions given in manual documentations carefully.

1.6 If any term of this Agreement is found to be void or needs to be changed, PervasID has the right to replace any such term with a new term. In such circumstances, the Buyer will be notified immediately.

1.7 The Buyer acknowledges and agrees to follow the local RADIO REGULATIONS including but not limited to maximum permitted transmit power when the PervasID products are operated including but not limited to should antennas or cables be substituted.

1.8 "A Buyer" is defined as a user who purchases directly from PervasID.

2. Limited Warranties

2.1 Subject to the terms set out in “Limited Warranty and Disclaimer”, PervasID warrants to the Buyer that PervasID RFID DAS 9000 reader and Pervasilog software products be free from defects in workmanship and materials, under normal use and service, for a period of one year from the date of purchase from PervasID. No warranty is applicable to cables, power supplies, antennas and other accessories supplied as part of an RFID DAS reader product.

2.2 Subject to the terms set out in “Limited Warranty and Disclaimer”, PervasID shall either repair or replace the PervasID product if the product is confirmed to be faulty and the warranty is still valid.

3. Pricing and Payment

3.1 Pricing shall be provided in the form of a formal quotation for products or services made by PervasID. The quotation will expire 30 days after the date of the quotation.

3.2 The Buyer agrees to pay any applicable taxes including but not limited to VAT on PervasID products or services.

3.3 All payments will be made in UK pounds net 30 business days from the date of PervasID’s invoice. Any amounts not paid when due will accrue interest at the rate of 2.5% per month.

3.4 If PervasID brings legal action to enforce its rights and/or the Buyer’s obligations pursuant to or in connection with this Agreement, including but not limited to legal action to collect payments owing by the Buyer pursuant to this Agreement, the Buyer will pay all of PervasID’s costs and expenses related to or arising out of the suit including but not limited to attorneys’ fees.

4. Order Cancellation and Rescheduling

4.1 PervasID will not accept the request of any Buyer to cancel or reschedule a product purchase order.

4.2 PervasID will have the right to cancel any unfilled order if the Buyer becomes insolvent, is adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganisation statute.

5. Product Shipments

5.1 Shipments will be made at PervasID's discretion unless otherwise specified in writing by Buyer. The Buyer must notify PervasID of any visible defects, quantity shortages or incorrect product shipments within seven days of receipt of the shipment. Failure to notify PervasID in writing within the seven-day period will be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages or incorrect shipments, and the products will be conclusively deemed accepted.

6. Changes to Product Specifications

6.1 PervasID has the right to change the specifications of any products without notice. If changes to specifications are made, PervasID assumes no obligation to provide the change on products previously purchased. PervasID may substitute products manufactured to such modified specifications for those products previously ordered by the Buyer so long as such products substantially conform to the products ordered by the Buyer.

6.2 PervasID has the right to substitute product components of equivalent function and performance without notice to Buyer.

7. Support and Maintenance

7.1 PervasID is not obligated to provide any level of support.

7.2 Any support provided by PervasID will be at PervasID's sole discretion and shall be subject to any terms and conditions including pricing provided by PervasID.

7.3. Any Maintenance services provided by PervasID for PervasID products are subject to the Buyer paying all applicable fees and entering into a separate agreement with PervasID.

8. Services

8.1 The Buyer may place purchase orders for various services offered by PervasID. Such services, if accepted by PervasID, shall be subject to these terms, as well as additional terms and conditions which shall be set by PervasID.

8.2 PervasID reserves the right to subcontract services to a third party organisation to provide services to the Buyer.

9. Right and Ownership

9.1 PervasID owns and will retain all right, title and interest in and to any patents, copyrights, mask work rights, trade secrets, trademarks, any correction, bug fixes and updates to any PervasID product and other intellectual property rights in and to any PervasID's products and services and all work product created by PervasID, as applicable.

9.2 The sale of any PervasID product or service does not convey any license, by implication or otherwise, covering or relating to the product or service with other products otherwise agreed with different terms and conditions. PervasID retains the copyright in all documents, manuals and plans supplied to Buyer pursuant to or ancillary to these terms.

9.3 Subject to the terms set out in "Additional agreement for RFID DAS 9000 development kit", PervasID grants a perpetual, non-exclusive, non-transferable, licence to use the PervasID Pervasilog software product for Buyer's internal business purposes only. The Buyer has no right to sublicense or trade the Pervasilog software.

9.4 The Buyer shall not permit the encumbrance of PervasID Pervasilog software product with any lien or security interest.

10. Confidential Information

10.1 The Buyer acknowledges that all drawings, specifications, and other technical or business documentation, information, and materials delivered to or learned by the Buyer from PervasID or a product will be considered PervasID's Confidential Information. The Buyer must not disclose the Confidential Information to any third party, other than its contractors, without written authorisation from PervasID.

11. Limitation of Liability

11.1 IN NO EVENT SHALL PERVASID'S TOTAL LIABILITY TO THE BUYER ARISING OUT OF OR IN CONNECTION WITH PERVASID'S PRODUCTS OR SERVICES EXCEED THE TOTAL AMOUNT PAID BY THE BUYER TO PERVASID FOR THE PARTICULAR PRODUCTS SOLD OR SERVICES PERFORMED.

11.2 NO CLAIM OR ACTION MAY BE BROUGHT BY THE BUYER AGAINST PERVASID MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS ACCRUED.

11.3 IN NO EVENT SHALL PERVASID BE LIABLE TO BUYER OR ANY THIRD PARTY FOR LOSS OF USE, INTERRUPTION OF BUSINESS OR ANY INCIDENTAL, INDIRECT, SPECULATIVE, PUNITIVE, LOSS OF PROFIT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, COSTS, OR CLAIMS OF ANY NATURE WHATSOEVER, ARISING OUT OF OR RELATING TO THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION OR OTHERWISE, EVEN IF PERVASID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.4 PERVASID OR BUYER SHALL NOT HAVE ANY LIABILITY OR BE CONSIDERED TO BE IN BREACH OR DEFAULT OF ITS OBLIGATION UNDER THIS AGREEMENT TO THE EXTENT THAT PERFORMANCE OF SUCH OBLIGATION IS DELAYED DIRECTLY OR INDIRECTLY, DUE TO CAUSES BEYOND ITS REASONABLE CONTROL INCLUDING BUT NOT LIMITED TO ACT OF FAILURE TO ACT OF GOVERNMENTAL AUTHORITIES, TERRORISM, EARTHQUAKE, FLOOD, SHORTAGES, ACT OF GOD, FAILURE OF ANY SUPPLIERS OR ANY OTHER REASONABLE DELAY.

12. Buyer Indemnity

12.1 Buyer will indemnify, defend, and hold PervasID harmless from and against any and all claims, damages, losses, costs, expenses and liability arising out of or related to: (a) Buyer's use of products purchased from PervasID, including any claim arising out of or related to any warranty made by Buyer or (b) any breach of Buyer's obligations under these terms and conditions.

13. Compliance with Export Control Law

13.1 Buyer understands and recognises that the PervasID products and any other technical information made available to it hereunder may be subject to the export administration regulations of the European Union, United Kingdom, United States Department of Commerce and other United States government regulations related to the export of technical data and products. Buyer is responsible for its compliance with all such regulations. Buyer hereby agrees to indemnify and hold PervasID harmless from any breach of these regulations.

14. Force Majeure

14.1 PervasID will not be liable or be considered in breach or default of its obligations under this Agreement for any failure to perform or delay attributable directly or indirectly, in whole or in part, to any cause beyond its reasonable control, including but not limited to government actions, war, civil disturbance, terrorist act, earthquake, flood, act of God, power failure, labour shortages, failure or delay in delivery by PervasID's suppliers or subcontractors, shortage of energy, raw materials or equipment, or Buyer's fault or negligence. In the event of any such delay, the date for delivery of any products or services will, at the request of PervasID, be deferred for a period up to the time lost by reason of the delay.

15. U.S. Government Restricted Rights

15.1 Buyer hereby agrees that the PervasID Pervasilog software provided as part of the PervasID RFID DAS product is deemed to be "commercial computer software", pursuant to DFAR Section 227.7202 and FAR Section 12.212 as applicable, and is delivered to Buyer with Restricted Rights. Such restricted rights are those identified in this Agreement. The manufacturer is PervasID Ltd, IdeaSpace, 3 Charles Babbage Road, Cambridge, CB3 0GT, United Kingdom. Any use, modification, reproduction, release, performance, display or disclosure of the PercasID Pervasilog Software by the U.S. Government shall be subject to these terms and the restrictions contained in subsection (c) of FAR 52.227-19, Commercial Computer Software – Restricted Rights (Jun 1987), or FAR 52.227-14, Rights in Data – General Alternative III (Jun 1987).

16. Non-Assignment

16.1 The Buyer shall not transfer, assign or delegate this Agreement or any rights or obligations hereunder, whether voluntarily, by operation of law or otherwise, without the prior written consent of PervasID.

17. Severance

17.1 If any provision within this Agreement is found by a proper authority or court to be unenforceable or invalid such unenforceability or invalidity shall be as narrow as the law permits and shall not render this Agreement unenforceable or invalid as a whole. Any such provision found by a proper authority or court to be unenforceable or invalid shall be severed from the remainder of this Agreement which shall remain valid and fully enforceable. As set out in Clause 1.6, PervasID has the right to replace any such provision so severed with a new term.

18. Miscellaneous

18.1 The construction, validity, and performance of this Agreement will be governed by the law of England and Wales. Notwithstanding the foregoing, any judgment may be enforced in any court of England and Wales or foreign court, and PervasID may seek injunctive relief in any court of England and Wales or foreign court.

18.2 No failure or delay by PervasID to exercise any right or remedy will operate as a waiver of that right or remedy or affect any other right or remedy. Except as otherwise expressly set out in these terms, all rights and remedies specified in these terms are cumulative and are not exclusive of any other rights or remedies specified in these terms or proscribed by law.

18.3 Subject to the foregoing, these terms will be binding upon and inure to the benefit of the parties.

19. Entire Agreement

This Agreement and limited warranty and disclaimer and additional agreement for RFID DAS 9000 development kit annexed constitute the entire agreement between PervasID and the Buyer with respect to the matters referred to herein, and no other agreement, verbal or otherwise in relation to such matters, shall be binding upon the parties.