

1. Definitions

"Exatron" means the Exatron Servers Manufacturing Pvt Ltd, selling products to the Customer as identified in Exatron's Quotation or Invoice.

"Customer" means the person or legal entity identified in Exatron's Quotation or Invoice.

"Contract" means a contract for sale by Exatron to the Customer of the products and/or services incorporating the Terms and Conditions

"Exatron-branded" means computer hardware products that are marked with the "Exatron" brand, including all standard components thereof, but does not include any of the following items:

- Software, sound cards, speakers, external devices, accessories or parts added to the Exatron-branded hardware products after they are shipped from Exatron;
- Accessories or parts added to the Exatron-branded hardware products through Exatron's Custom Factory Integration Services at Customer's request;
- Accessories or parts that are not installed in the Exatron factory;
- Third Party Software and Peripheral products; or
- Monitors, keyboards and mice, to the extent that they are not included on Exatron's standard price list.

"Order Confirmation" means formal acknowledgement of Product ordered by Customer, sent by Exatron.

"Price" means the price as per Exatron Quotation and Order Confirmation and the latter shall have precedence.

"Product(s)" means the products as described in Order Confirmation and may include Exatron-branded products, third party products and Service Offerings

"Service Offering (s)" means the different service options offered by Exatron for the Products or any part of them and for varying periods, as described in Exatron's published literature, including but not limited to Exatron's Invoice and/or Exatron's Service Description.

"Third Party Products" means products other than Exatron-branded.

2. Formation of contract

No Contract shall come into existence until the Customer's order has been accepted by Exatron by way of confirmation from Exatron. The Products sold and/or services rendered are subject to these Terms and Conditions to the exclusion of any other terms and conditions stipulated or referred to by Customer. The Customer acknowledges that it is aware of the contents of and agrees to be bound by these Terms and Conditions. Neither Exatron's acknowledgment of a purchase order nor its failure to object to conflicting, different, or additional terms and conditions in a purchase order shall be deemed an acceptance of such terms and conditions or a waiver of the provisions hereof.

3. Orders, Price and Payment

- 3.1. Unless credit terms have been expressly agreed by Exatron, payment for the Products or services including applicable taxes shall be made in full before physical delivery of Products or services.
- 3.2. Customer shall bear all country, provincial, municipal, government, state and local sales, use, goods and services, value added, excise, privilege and similar levies/taxes.
- 3.3. Time for payment is of the essence. Exatron reserves the right to charge interest at the rate of 2% per month from the date on which the payment was due till the date of actual receipt of payment.
- 3.4. Unless Customer and Exatron have agreed to a different discount, Exatron's standard pricing policy for Exatron-branded systems, which include both hardware and services in one discounted price, allocates the discount off list price applicable to the service portion of the system to be equal to the overall calculated percentage discount off list price on the entire system.

4. Software

- 4.1. All software provided is subject to the terms and conditions of the license agreement relating to that software. Customer acknowledges its obligations to abide by such license agreements. Customer acknowledges that Exatron does not warrant any software under these Terms and Conditions. All software is warranted in accordance with the license agreement that governs its use.
- 4.2. All rights, title or interest in respect of the intellectual property rights in the software remain with Exatron or the licensor of the software at all times.

5. Title and Risk

Title and risk in the Products shall pass to the Customer upon delivery of the Products to Customer. Title to those Products which are software shall be governed by the provisions of the software license.

6. Delivery

- 6.1. Exatron shall deliver the Products to the place of delivery designated by Customer and agreed to by Exatron ("Place of Delivery").
- 6.2. Exatron may, at its discretion, deliver the Products by instalments in any sequence. Where the Products are so delivered by instalments, each instalment shall be deemed to be the subject of a separate contract and no default or failure by Exatron in respect of any one or more instalments shall vitiate the Contract in respect of Products previously delivered or undelivered Products.
- 6.3. Any dates quoted by Exatron for the delivery of the Products are approximate only and shall not form part of the Contract. Exatron shall not be liable for any delay in delivery of the Products and/or services, howsoever caused.
- 6.4. Exatron may revise and/or discontinue products at any time without notice as part of Exatron's policy of on-going product up-date and revision. Revised or updated products will have the functionality and performance of the Products ordered. The Customer accepts that Exatron's policy may result in differences between the specification of products delivered to the Customer and the specification of Products ordered. There may be occasions when Exatron confirms orders but learns that it cannot supply the ordered Products, either at all or in the quantities ordered such as when the products no longer are being manufactured or they otherwise become unavailable to Exatron, or when Exatron cannot source components for the configuration ordered, or when there is a pricing error etc. In such circumstances, Exatron will contact the Customer to inform them about alternative products that might meet the Customer's needs. However, if the Customer does not wish to order alternative products, Exatron will cancel the order for Products that it cannot supply and will refund your purchase price for those products.

7. Acceptance of Products

- 7.1. Unless the Customer notifies Exatron to the contrary on the day of delivery and such notification is confirmed in writing within two days, the Products shall be deemed to have been accepted by the Customer as being in good condition and in accordance with the Contract. The Customer shall not be entitled to withhold payment of all or any of the Price of the Products whilst any claim is being investigated by Exatron.
- 7.2. New Exatron-branded Products purchased under these Terms and Conditions directly from Exatron by an end-user Customer may be returned by Customer up to 30 days from the date of the invoice for a replacement, refund or credit of the purchase price in accordance with Exatron's "Return Policy" in effect in the Location on the date of the invoice. The refund or credit will not include (a) any shipping and handling charges forming part of the purchase price and (b) any Octroi tax amount. Products returned under Exatron's "Return Policy" must be received by Exatron in as-new or as-shipped-by-Exatron condition, including conformance to invoiced specification, and all of the manuals, diskettes, CDs, power cables and other items included with a Product must be returned with it.

8. Warranty

- 8.1. Unless specified otherwise, Exatron warrants to the Customer that Exatron-branded Products will from invoice date be free from defects in materials and workmanship affecting normal use for a period of 5 years or such other period as may be set out in Exatron's invoice ("Standard Warranty" And "Relevant Warranty" period as appropriate).
- 8.2. This Standard Warranty or Relevant Warranty does not cover damage, fault, failure or malfunction due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Exatron, usage and/or storage and/or installation not in accordance with Product instructions, failure to perform required preventive maintenance, normal wear and tear, act of God, fire, flood, war, act of violence or any similar occurrence; products with missing or altered Service Tags or serial numbers; any attempt by any person other than Exatron personnel or any person authorised by Exatron, to adjust, repair or support the Products and problems caused by use of parts and components not supplied by Exatron. The Standard Warranty or Relevant Warranty does not cover any items that are in one or more of the following categories: software; external devices; accessories or parts added to the Product after the Product is shipped from Exatron; accessories or parts added to the Product through Exatron's Custom Factory Integration (CFI) program; accessories or parts that are not installed in the Exatron factory; or Third Party Products purchased under Exatron Software & Peripherals (S&P) Program.
- 8.3. Subject to clause 9 below, if a valid claim is received during the Standard Warranty or Relevant Warranty period during the Standard Warranty or Relevant Warranty period as the case may be and beginning on the invoice date, Exatron will repair or replace Exatron-branded Products returned to Exatron's facility at its option and to the extent permitted by law. Customer must prepay shipping and transportation, insurance charge. Exatron will ship the repaired or replacement Products to Customer freight prepaid.
- 8.4. Exatron does not give any warranty that the Products are fit for any particular purpose and this Standard Warranty is given in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, trade usage, course of dealing or otherwise including warranties or conditions of merchantability, fitness for purpose, satisfactory quality and/or compliance with description, all of which are hereby excluded to the fullest extent permitted by law. To the extent permitted by law, the Standard Warranty and remedies set forth herein are exclusive and in lieu of all other warranties, remedies and conditions, whether oral or written, statutory, express or implied. If Exatron cannot lawfully disclaim Statutory or implied warranties then to the extent permitted by law, all such warranties shall be limited in duration to the duration of this Standard Warranty and to repair or replacement service as determined by Exatron in its sole discretion. No Exatron reseller, agent, or employee is authorized to make any modification, extension, or addition to this warranty.
- 8.5. The Customer agrees that, in relation to Third Party Products purchased through Exatron, where such of the Products are covered by a relevant manufacturer's warranty, then the Standard Warranty shall not extend to such Third Party Products and such manufacturer's warranty shall be the sole warranty in respect of such Third Party Products. The Customer shall utilise that warranty for the support of such Third Party Products and in any event not look to Exatron but shall look to the relevant manufacturer for such warranty support. Exatron in so far as permitted by law, provides Third Party Products "as is".

9. Service and Technical Support

Exatron will provide general service and technical support to Customer in accordance with the then-current service and technical support policies in effect. Service and support offerings may vary from product to product. If Customer purchases optional services and support as listed on Exatron's invoice, Exatron will provide the optional service and support to Customer in accordance with the then-

current terms and conditions in the optional service contract between Exatron and Customer (available via the Internet on Exatron's Web site at <https://www.Exatron.co.in/> or upon request) in addition to the Standard Warranty or Relevant Warranty. Exatron may, at its discretion, revise its general and optional service and support programs and the terms and conditions that govern them. Exatron has no obligation to provide service or support until Exatron has received full payment for the Product or service/support contract for which service or support is requested.

10. Liability

- 10.1. Exatron will provide support services to 'out of warranty' products, provided the said products and spare parts are available in its inventory. In case of lack of availability due to the products/spare parts not being manufactured any more by Exatron (due to reasons attributable to advancement in technology, innovation, new product launch, etc.), Exatron, at its sole discretion, may offer to provide the customer with an upgraded product or a refurbished product. The cost of the upgraded product or a refurbished product, which is not negotiable, may vary from product to product and the customer will be required to bear the same.
- 10.2. Exatron shall not be liable in contract or in tort for any loss or damage suffered and consumer rights are limited to those set out in these Terms and Conditions and under statute.
- 10.3. To the extent permitted by law and subject to clause 10.7, Exatron's total liability herein in respect of each event or series of connected events shall not exceed the amount invoiced for the applicable Products and/or services under the Contract.
- 10.4. The Customer shall indemnify Exatron and keep Exatron fully and effectively indemnified against any loss of or damage to any property or injury to or death of any persons caused by any negligent act or omission or wilful misconduct of the Customer, its employees, agents or sub-contractors or by any breach of its contractual obligations arising out of these Terms and Conditions.
- 10.5. To the extent permitted by law Exatron and Customer agree that Exatron will not be liable for Products not being available for use, or for data or software which is lost, corrupted, deleted or altered. Any service response times stated by Exatron in service contracts are approximate only. Exatron shall not be liable to the Customer for a) any incidental, indirect, special or consequential damages, b) loss of opportunity, c) loss of revenue, d) loss of profit or anticipated profit, e) loss of business f) loss of contracts, g) loss of goodwill, h) loss arising out of business interruption, i) loss arising out of or in connection with pollution or contamination arising out of or in connection with the purchase, use or performance of Products or services, even if Exatron has been advised of their possibility.
- 10.6. To the extent permitted by law, any typographical, clerical or other error or omission in sales literature, quotation, price list, acceptance of offer, invoice or other documents or information issued by Exatron shall be subject to correction without any liability on the part of Exatron.
- 10.7. Where under any applicable law, implied conditions and warranties cannot be excluded, Exatron's liability for breach of such conditions and warranties shall be limited, at Exatron's option, to:
 - a. in the case of Products, the replacement of the Products or the supply of equivalent Products; the repair of such Products; the payment of the cost of replacing the Products or of acquiring equivalent Products; or the payment of the cost of having the Products repaired; OR
 - b. in the case of services, the supplying of services again; or the payment of the cost of having services supplied again.

11. Force Majeure

Neither party shall be liable for any delay in performing any of its obligations under these Terms and Conditions if such delay is caused by circumstances beyond the reasonable control of the party so delaying, and such party shall be entitled to a reasonable extension of time for the performance of such obligations.

12. Export Restrictions

Each party, at its own expense, will comply with all applicable laws, orders and regulations of any governmental authority with jurisdiction over its activities in connection with these Terms and Conditions and any Contract. Each party will furnish to the other party any information required to enable the other party to comply with applicable laws and regulations related to the Products. Exatron and Customer acknowledge that Products licensed or sold under any Contract are subject to export control laws and regulations, including those of the countries from which they were supplied and in which they are used and agrees to abide by those laws and regulations. The Products purchased under any Contract may not be sold, leased or otherwise transferred to restricted end-users or to restricted countries. In addition, the Products may not be sold, leased or otherwise transferred to, or utilized by, an end-user engaged in activities related to weapons of mass destruction, including but not necessarily limited to, activities related to the design, development, production or use of nuclear materials, nuclear facilities, or nuclear weapons, missiles or support of missile projects, or chemical or biological weapons. The Customer and Exatron agree to comply with all applicable export laws, regulations and orders. In addition, each party agrees to indemnify, defend and hold the other harmless from any claims, demands or causes of action against the other due to the indemnifying party's violation or alleged violation of the applicable export laws, regulations and orders.

13. Governing Law and Dispute Resolution

These Terms and Conditions shall be governed by and construed in accordance with the laws of the India.

If any dispute arises during the subsistence or thereafter or in connection with the validity, interpretation, implementation or alleged breach of any provision of these terms and conditions or regarding any question, including the question as to whether the termination of the main contract or this terms and conditions by any Party hereto has been legitimate, the Parties hereto shall endeavour to settle such dispute amicably in consultation with the board of directors of the company.

In case of such failure of amicable settlement the dispute shall be referred to a sole arbitrator mutually agreed upon by the parties. The provisions of the Arbitration and Conciliation Act, 1996, applicable in India, which shall govern the arbitration proceedings.

The arbitration proceedings shall be held at a venue mutually agreed by the parties to the dispute. The arbitration proceedings shall be in English language. The award shall be substantiated in writing. The court of arbitration shall also decide on the costs of the arbitration proceedings. The award shall be binding on the disputing Parties subject to applicable laws and the award shall be enforceable in any competent court of law. The provisions of this Clause shall survive the termination of this Agreement for any reason whatsoever. In the event the parties fail to arrive at settlement post Arbitration the same shall be subject to the non-exclusive jurisdiction of the courts of Chittoor District Andhra Pradesh, India.

14. General

- 14.1. The Customer shall not assign or otherwise transfer any Contracts or any of its rights and obligations hereunder whether in whole or in part without the prior written consent of Exatron. Any such unauthorized assignment shall be deemed null and void.
- 14.2. If any provision of these Terms and 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 Terms and Conditions and the remainder of the provisions in question shall not be affected thereby.
- 14.3. **No Waiver.** No failure or delay on Exatron's part in exercising any power or right under this Agreement operates as a waiver, nor does any single or partial exercise of any power or right preclude any other or further exercise, or the exercise of any other power or right.
- 14.4. Exatron has the right to change the Terms and Conditions at any time.
- 14.5. Information provided at Exatron's website with respect to Exatron's Products may be out of date and Exatron makes no undertaking to update the information provided on the website with respect to the Products.
- 14.6. Exatron can at any time, without notice, modify, suspend or terminate operation of or access to its website or to any part thereof; and/ or modify or change its website, or any part thereof; and/ or interrupt operation to perform maintenance, error correction or other changes.
- 14.7. **Customer Data & Data Loss.** Exatron recommends regular backup of data. In cases where a hard drive failure is detected, the hard drive will be replaced. Customer data stored on the defective hard drive will be lost if the hard drive is replaced. The service engineer will configure the operating system to the original factory settings only if the customer makes the original software image or operating system installation media available. The customer should contact Exatron Technical Support for assistance in reinstalling any additional software provided on the original factory image. Data Loss: The customer is responsible for the security, backup & reinstallation of their data at all times. Exatron accepts no liability for loss of software and data.
- 14.8. **Damage Exclusions** In addition to those items specified in Exatron's Standard Terms and Conditions of Sale, Exatron Service does not cover damage caused by:
 - Use of components or software not supplied by Exatron.
 - Relocation or transportation
 - Servicing not authorised by Exatron.
 - Usage not in accordance with product instructions.
 - Improper voltage selection on systems power supply
 - Unreasonable or excessive use.
 - Accidental damage. For future purchases, CompleteCare cover is available.
 - Malicious damage.
 - Environmental conditions.
 - Act of God, fire, flood, act of violence or any similar occurrence.
- 14.9. **The Coverage Area:** The Service is valid in the country in which the system was purchased

15. Customer Obligations

In order to enable Exatron to carry out its support obligations the customer without limitation should:

- Provide Exatron with full, safe and prompt access to the products.
- Where possible, provide a technically competent person with knowledge of the system and fault to be present throughout the repair and to actively assist in troubleshooting.
- Ensure the system is in an easily accessible location with adequate space, health and safety conditions.
- Provide such telecommunication facilities as are reasonably required by Exatron for the performance of its obligations and for any other testing, diagnostic and remedial purposes at the customer's expense.
- Keep full security copies of any software and data in accordance with best computing practice and in any case before requesting Services from Exatron.
- Acknowledge that they are responsible for recovering their own application software after any such Services have been provided.
- Inform Exatron of any system relocations.
- Any other actions that Exatron may reasonably request in order to best perform the service.