



GRANADA IT COMPONENTS  
EUROPE BV

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF GRANADA IT COMPONENTS EUROPE B.V.

These general terms and conditions of sale and delivery (hereinafter: the "Conditions") have been filed with the Chamber of Commerce and Industry for Rotterdam, the Netherlands, under number 24391748.

### 1. General

1.1 All computer components and other products sold and delivered by Granada IT Components Europe B.V. (hereinafter: "Granada IT Components") are hereinafter referred to as: the "Products".

1.2 Each person and/or legal entity who requests Granada IT Components to sell and deliver Products or to issue an offer or prepare a tender, irrespective of whether or not a sales agreement is actually entered into, shall be regarded a "Customer" in these Conditions.

1.3 These Conditions are applicable to and form part of all tenders, offers and agreements between Granada IT Components and the Customer with respect to the sales and delivery of Products. These Conditions are also applicable to and form part of all invoices and deliveries of Products by Granada IT Components to the Customer. The Customer can only appeal to deviating and/or supplementary conditions if, and insofar as, these have been explicitly accepted in writing by Granada IT Components. Any general or other conditions of the Customer shall not apply.

1.4 Once the Customer has concluded an agreement governed by the present Conditions, all subsequent agreements entered into between Granada IT Components and the Customer shall automatically be governed by these Conditions.

### 2. Offers and orders

2.1 All offers of Granada IT Components as well as all purchase orders from the Customer, both oral and in writing, are without obligations and not binding on Granada IT Components as such. All offers made by Granada IT Components are valid for one (1) day.

2.2 All documents and data, including any designs, drawings, working and detail drawings, models, photographs, samples, designs, indicated measurements and quantities, patterns, colours, materials, price lists and/or other data provided in catalogues, folders, web pages and other documents are as accurate as is reasonably possible, but are not binding on Granada IT Components. They may not be considered as exact representations of what Granada IT Components offers.

### 3. Conclusion of agreement

3.1 The agreement between Granada IT Components and the Customer will be concluded as soon as such agreement has been confirmed by Granada IT Components in writing by sending either a sales confirmation or a pro forma invoice and will consist of such document only. Any oral arrangement as well as any arrangements in writing deviating from these Conditions, which were reached earlier, will be cancelled as soon as the agreement between the parties is concluded.

3.2 Granada IT Components is not in any way obliged to prepare for execution of any agreement until all details required as well as the agreed advance payment, if applicable, have been received.

3.3 The provisions of any agreement between Granada IT Components and the Customer are only applicable to the relevant transaction.

### 4. Prices

4.1 Unless otherwise agreed in writing, all prices of Granada IT Components are based on the price lists most recently generated by Granada IT Components. All quotations by Granada IT Components are subject to price changes, unless stated otherwise. Granada IT Components will announce price changes to the Customer as soon as possible.



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4.2 All prices are ex works and are exclusive of VAT, unless stated otherwise. Bank charges must always be 'shared' between Granada IT Components and the Customer.

4.3 If the Customer places an order for Products for a total amount of less than EUR 5,000 (in words: five thousand Euro) (exclusive of VAT), a handling fee of EUR 50 (in words: fifty Euro) will be charged. Both prices referred to in the previous sentence will be adjusted by Granada IT Components from time to time, and the relevant prices will be indicated on Granada IT Components' price list, effective as at the date the agreement is confirmed by Granada IT Components, and/or on the offer concerned.

#### 5. Delivery and delivery time

5.1 Unless otherwise agreed in writing, deliveries shall be made ex works and in accordance with the relevant provisions of the most recent version of the Incoterms.

5.2 The agreed delivery time shall not be final or of the essence. If and to the extent that the Customer fails to fulfil any of its obligations towards Granada IT Components, Granada IT Components will be entitled to postpone delivery. In any event, delivery time shall be extended by the amount of time during which performance of the agreement has been delayed or hindered in connection with circumstances for which Granada IT Components cannot be held liable. If the agreed delivery time is not met, the Customer may demand that delivery be effected within a reasonable period, such period to be no less than sixty (60) days.

5.3 Exceeding the delivery time, due to whatever cause other than a cause attributable to Granada IT Components shall never entitle the Customer to compensation for direct or indirect damages, dissolution of the agreement or non-fulfilment or suspension of any obligation ensuing from the agreement. Part-deliveries are permitted. The Customer is obliged to accept in full the Products delivered by Granada IT Components at the moment Granada IT Components delivers these Products to the Customer.

#### 6. Transfer of risk, ownership and insurance

6.1 All risks relating to the Products shall transfer to the Customer at the moment of delivery.

6.2 Granada IT Components shall retain title to the Products, and such title shall only be transferred to the Customer after Granada IT Components has received full payment of all that the latter is entitled to claim from the Customer as payment for any Products delivered pursuant to any agreement, as well as due to his being in default in observing any such agreement.

6.3 The Customer shall ensure that the Products to which title has been retained remain and/or are rendered identifiable, and separate such Products from each other and from the other Products stored by the Customer.

6.4 If and insofar as title to these Products has been retained by Granada IT Components, the Customer shall not be permitted to alienate such Products otherwise than in its normal business operations, or to establish any restricted real right thereon.

6.5 Granada IT Components shall insure any Products to be delivered at the expense of the Customer. These costs will be indicated on the invoice and must be paid within the same term as the price for the Products.

#### 7. Right of recovery

7.1 The Customer must submit claims of recovery in connection with the quantity of Products delivered, and/or with regard to visible defects in the Products, to the carrier as well as to Granada IT Components in writing immediately at the time of delivery. Failure to do so shall result in the Customer forfeiting its right to invoke the relevant claim against Granada IT Components.

7.2 The Customer must submit claims of recovery with regard to non-visible defects to Granada IT Components in writing within two (2) days of the date on which the defects were discovered or could reasonably have been discovered. Such claims must, in any event, always be submitted to Granada IT Components in writing by the Customer within two (2) days of delivery. Failure to do so shall result in the Customer forfeiting its right to invoke the relevant claim against Granada IT Components.



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7.3 Claims of recovery shall never give the Customer the right to suspend any payment.

7.4 If and to the extent that Granada IT Components finds that recovery claims relating to specific Products are justified, and, in Granada IT Components' opinion, the Customer has provided satisfactory evidence as to defects existing at the time of delivery, Granada IT Components shall, each time at its own option, (i) replace the defective Product(s) or the defective part of the Product(s) free of charge, whereby the defective Product(s) or the defective part of the Product(s) in question will become the property of Granada IT Components, (ii) repair the defect or the defective part of the Product(s), or (iii) reimburse the purchase price of the defective Product(s) to the Customer, without the Customer being entitled to any damages. The costs of transportation of the repaired or the new Products to the Customer will be for the account of Granada IT Components. However, the guarantee set out below in Article 11 does not include any other costs. Granada IT Components is entitled to invoice such costs to the Customer, and these will be settled by the Customer at Granada IT Components' first request.

7.5 Products, which are claimed to be defective, can be returned to Granada IT Components for inspection at the expense of the Customer. If any Product which is claimed to be defective is returned to Granada IT Components for inspection, the Customer will be obliged to apply for an RMA number. This RMA number will be issued within three (3) working days after receiving such a request by e-mail or by fax. This RMA number will be valid for seven (7) days. Furthermore, the Customer has to return the Product(s) (i) specified per line item on the RMA form, (ii) accompanied with copies of the original invoices for each line item, (iii) with sufficient protection to avoid physical or electrostatic damage (Granada IT Components suggests packing in antistatic bags and boxes with separators), (iv) in their original packaging with accessories originally sold together with the Product(s) and (v) with the RMA number clearly marked on the exterior of the box. Granada IT Components is entitled to immediately return any Product, which it receives for servicing which is not packed properly at the expense of the Customer, and in any such event, the Customer forfeits its right to invoke any claim regarding this Product against Granada IT Components.

### 8. Sale and delivery to third parties

8.1 The Customer must effect any sale, delivery or any other manner of placing Products that were originally delivered to the Customer by Granada IT Components at the disposal of any third parties in the original, undamaged composition and packaging of the Products per unit as originating from Granada IT Components, without the Customer having made any modifications to the composition and packaging or causing such modifications to be made.

8.2 The Customer shall be obliged to impose the provisions in this article on his own customers, by way of a similar clause. If and to the extent that the Customer does not impose the provisions of this article on his customers, or if his customers do not observe the provisions imposed on them, the Customer shall be liable for all damages suffered by Granada IT Components as a consequence thereof.

### 9. Payment

9.1 Payment for the Products must be made in advance, unless payment on receipt of the Products or within two (2) days after receipt of the Products, has been agreed upon pursuant to the specific payment arrangements made between Granada IT Components and the Customer for the delivery concerned.

9.2 Granada IT Components may at any time separately invoice any partial delivery as referred to in Article 5.3.

9.3 The Customer shall not be permitted to set off any of its debts against any disputed or undisputed debt owed by Granada IT Components to the Customer, or to suspend payment of a debt owed by Granada IT Components in connection with any disputed or undisputed debt to the Customer, unless explicitly agreed in writing.

9.4 If the Customer fails to fulfil its payment obligation or to do so in time or in full, it will be deemed to be in default by operation of law and the amount due will be immediately payable to Granada IT Components without any reminder or notice of default being required, increased by interest at a rate of 1% per month, part of a month being regarded as a full month, charged on the amount payable by the Customer as from the first day after the end of the agreed term for payment.



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9.5 All expenses related to extra judicial and judicial collection of any claim against the Customer shall be for the account of the Customer. Such expenses are estimated to amount to at least 15% of the sum to be collected, but never less than EUR 500 (in words: five hundred Euro), without prejudice to Granada IT Components' right to claim the actual costs if those costs prove to be higher.

9.6 Granada IT Components shall also be entitled to rescind any other agreement with the Customer in whole or in part or to suspend delivery until full payment of any outstanding and due invoice is received by Granada IT Components. Granada IT Components shall be entitled to full compensation of damages in the event that the Customer fails to meet any of its obligations on time and/or in full or in part pursuant to the agreement.

#### 10. Retention of title

10.1 Without prejudice to the transfer of risk pursuant to article 6, Granada IT Components shall retain title to all Products delivered to the Customer until all amounts due in connection with any agreement have been paid in full: such amounts to include all amounts including interest and costs to which Granada IT Components is entitled concerning any default by the Customer to comply on time or properly with any agreement.

10.2 For the duration that the Products delivered remain the property of Granada IT Components, the Customer shall apply due care including adequate insurance of the Products, against damages including, but not limited to, damages caused by fire, explosion and flooding by water, as well as against theft and other calamities.

10.3 During the retention of title, the Customer shall not be entitled to pledge the Products or encumber the Products with any right in favour of any third party. Notwithstanding the retention of title as described in this article, the Customer shall have the right to sell the Product in its ordinary course of business. The Customer shall agree to a retention of title clause with its customers that is substantially similar to the arrangement in this article. The right to sell Products which are still subject to the retention of title, shall lapse automatically if any attachment is made against the Customer, moratorium of payment is granted to the Customer, the bankruptcy of the Customer has been applied for or the Customer makes a settlement with its creditors.

10.4 If the Customer fails to observe in full its payment obligations to Granada IT Components, or if there are good reasons for Granada IT Components to believe that the Customer will not fulfil these obligations in relation to the Products supplied but not paid for, or in the event that third parties claim rights in connection to such Products, Granada IT Components shall be entitled to have such Products collected, and shall recover possession thereof on either a temporary or a definite basis. The Customer shall authorise Granada IT Components to gain access to wherever the Products are located in order to recover possession thereof.

10.5 The costs related to the recovery of possession, including costs of transport and storage, shall be at the expense of the Customer.

#### 11. Guarantee and liability

11.1 Granada IT Components guarantees that the Products sold and delivered by it are free from defects for (i) lifetime for original memory, (ii) a period of one (1) year for third memory from the date of delivery and (iii) a period of three (3) months for OEM memory from the date of delivery, unless stated otherwise. Furthermore, Granada IT Components provides for CPU's in OEM / tray packing between three (3) months and one (1) year guarantee. The applicable guarantee period will be agreed upon when entering into the agreement; the guarantee period on Product(s) bought from Granada IT Components by the Customer is also mentioned on the invoice sent to the Customer. In order to avoid misunderstandings, there will be no guarantee on hard drives, in which case the Customer has to deal with the manufacturer directly.

11.2 Granada IT Components grants the guarantee set out in Article 11.1, provided the Products are installed and/or mounted under normal conditions, used and maintained in accordance with the operating instructions, which accompany the Products. However, there shall be no guarantee applicable in the event that the Product is altered or modified other than by or at the direction of Granada IT Components' personnel.



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11.3 The Customer will in no event have any rights under this guarantee or any right of recourse against Granada IT Components if:

- a. the Customer fails to fulfil one or more obligations towards Granada IT Components on any ground whatsoever;
- b. the alleged defect cannot be regarded as a defect occurring during the normal use of the Products delivered;
- c. the alleged defect can be regarded as a minor irregularity that is customary and/or unavoidable in such Products;
- d. the Products delivered have been used in circumstances that are not in keeping with the circumstances for which they are intended;
- e. the Products delivered have been stored, changed, treated, used or maintained carelessly or contrary to the instructions given by Granada IT Components, or have been repaired by a party other than Granada IT Components, unless the Customer can prove that the work was performed by a professional and competent repairer and the Customer could not reasonably be required to request prior approval or to wait for assistance from Granada IT Components; or
- f. the Customer was or ought to have been familiar with the defect or the defect was caused by circumstances that occurred after the Products had been delivered to the Customer;
- g. the Products are out of warranty or are not represented by Granada IT Components.

11.4 In order to invoke the guarantee set out in Article 11.1, the Customer has to apply for a RMA number. This RMA number will be issued within three (3) working days after receiving such a request by e-mail or by fax. This RMA number will be valid for seven (7) days. Furthermore, the Customer has to return the Product (i) specified per line item on the RMA form, (ii) accompanied with copies of the original invoices for each line item, (iii) with sufficient protection to avoid physical or electrostatic damage (Granada IT Components suggests packing in antistatic bags and boxes with separators), (iv) in their original packaging with accessories originally sold together with the Product and (v) with the RMA number clearly marked on the exterior of the box. Granada IT Components reserves the right to refuse any RMA that fails to meet the mentioned requirements.

11.5 If in Granada IT Components' opinion the guarantee set out in Article 11.1 has been rightly invoked, it will, each time at its own option, (i) replace the defective Product(s) or the defective part of the Product(s) free of charge, whereby the defective Product(s) or the defective part of the Product(s) in question will become the property of Granada IT Components, (ii) repair the defect or the defective part of the Product(s), or (iii) reimburse the purchase price of the defective Product(s) to the Customer, without the Customer being entitled to any damages. Any costs that exceed the normal costs of repair or replacement of the Products or parts of the Products will be payable by the Customer. The same will apply to transport charges, travel expenses and wage costs caused by the Customer and any and all other costs that should not reasonably be payable by Granada IT Components. The Customer must fully cooperate with Granada IT Components in all circumstances to enable Granada IT Components to repair the defect within a reasonable period, without that giving rise to any costs for Granada IT Components.

11.6 During repair, the technical department of Granada IT Components cannot be held liable for the loss of data stored in magnetic storage devices (eg. Flash). Only labels and markings issued by Granada IT Components will be accepted, all other markings must be removed.

11.7 The Customer will in no event be entitled on the grounds of any defect in Product(s) delivered by Granada IT Components to suspend its obligations under the agreement or to dissolve the agreement.

11.8 The foregoing guarantee is exclusive, and all other guarantees, whether express or implied, are excluded.

11.9 Granada IT Components will investigate whether the claim made by the Customer is justified, and whether the Customer is entitled to claim under the guarantee. Products, in respect of which a claim was legitimately submitted according to Granada IT Components, must in any event be returned to Granada IT Components at Granada IT Components' first request.

11.10 Granada IT Components shall not be liable under any circumstances for any consequential damage or any indirect or incidental damage arising out of any breach of any express or implied guarantee or otherwise, except where and to the extent that the damage is the result of an intentional act (opzet) or gross negligence (grove schuld) on Granada IT Components' part.



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11.11 The Customer shall indemnify Granada IT Components against all third party claims for compensation for damages incurred by the said third parties as a result of using the Products. Each and every claim against Granada IT Components shall lapse one year after the date on which the relevant claim arose.

11.12 All the remedies which may derive from the agreement concluded with the Customer and which Granada IT Components may use to reject liability, may also be invoked against the Customer by Granada IT Components' employees and any such third parties as Granada IT Components may employ as if these employees and/or third parties were themselves party to the agreement.

11.13 In the event that Granada IT Components is liable for any damage, for whatever reason, Granada IT Components shall at its discretion pay compensation or make another delivery. The compensation shall in no event exceed the invoiced value of the Products delivered and to which the damage caused was due, or, if the damage is covered by an insurance policy taken out by Granada IT Components, the amount actually paid by the insurance company in respect of the damage.

## 12. Indemnification

12.1 Non-observance of any one or more of the provisions of these Conditions from which Granada IT Components sustains damage, shall oblige the Customer to pay compensation for all damages thereby caused to Granada IT Components, including damage resulting from Granada IT Components' name and reputation being tarnished. The Customer shall indemnify Granada IT Components against all claims from third parties for compensation for any damage suffered by such third parties caused by or otherwise related to non-observance by the Customer of the provisions contained in these Conditions.

12.2 Granada IT Components may impose the obligation on the Customer to take Products, which the Customer has brought onto the market and which are defective, or in which a defect has been discovered, off the market, within a reasonable period of time, to be determined by Granada IT Components (recall action). All expenses involved therein and/or all damages ensuing therefrom are for the account of the Customer, unless Granada IT Components can be blamed for the defect in the Product.

## 13. Intellectual and industrial property rights

13.1 All intellectual and industrial property rights pertaining to the Products sold and delivered by Granada IT Components to the Customer are retained by Granada IT Components and such third party proprietors who have granted a right to use their intellectual or industrial property rights to Granada IT Components. Delivery of Granada IT Components' Products to the Customer shall not be construed as an express or implied licence to use, copy, publicise, in any way, exploit or disclose any part thereof to third parties, unless prior written consent is obtained from Granada IT Components or unless otherwise stipulated in these Conditions.

13.2 The Customer shall indemnify Granada IT Components against all third party claims based on intellectual and/or industrial property rights in information, designs or other Product(s) which are liable to protection under any intellectual and/or industrial property rights and which the Customer supplied to Granada IT Components for Granada IT Components' use.

13.3 If a third party, being a legal successor to the Customer and/or one of the said third party's legal successors, infringes any of Granada IT Components' intellectual or industrial property rights, the Customer shall be liable towards Granada IT Components for any damages which Granada IT Components may or shall suffer as a result, without prejudice to Granada IT Components' right against the infringing party.

## 14. Suspension and dissolution

14.1 In the event that and as soon as the Customer does not promptly or does not properly fulfil any one or more of its obligations, is declared bankrupt, applies for a moratorium of payment, proceeds to liquidate its company, its company ceases to operate otherwise, an attachment is made to part or all of its assets, offers a settlement to its creditors or otherwise proves to be insolvent, Granada IT Components shall have the right to at its discretion:

a) to suspend Granada IT Components' (further) performance of all agreements concluded with the Customer until the latter has fulfilled its obligations;



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b) to dissolve the agreement or the unfulfilled part thereof, without thereby incurring any liability to the Customer for damages and without prejudice to the unrestricted right of Granada IT Components to claim full compensation for damages.

15. Force majeure

15.1 An event of force majeure shall exist if the performance of the agreement is impeded totally or partially, permanently or temporarily, as a result of circumstances over which the parties have no control and/or as a result of circumstances which occur on Granada IT Components' side, such as strikes, lock outs, picketing, insurrection, civil disturbance, transport difficulties and other transport interruptions, accidents, fire, interruption in production, import or export restrictions, above-average levels of sickness, delays or failures in deliveries from Granada IT Components' suppliers.

15.2 If an event of force majeure occurs, the obligations incumbent on the parties shall be postponed. Should the event of force majeure last longer than six months, either party may unilaterally dissolve that part of the agreement which has not been performed, by means of written notification to that effect, without either party being obliged to compensate the other in this respect.

16. Conversion

16.1 Nullity or invalidity of one or more clauses of these Conditions shall not prejudice the validity of the other clauses, and the nullified or invalid clause shall be deemed replaced by a clause which is valid and enforceable and the bearing of which shall be closest to the original bearing of such clause.

17 Disputes and applicable law

17.1 Dutch law is applicable to these Conditions, the interpretation thereof, as well as to all offers, tenders, agreements, deliveries and invoices of Granada IT Components. The applicability of the United Nations Convention 1980 in Respect of International Purchase Transactions Regarding Moveable Property is explicitly excluded.

17.2 All disputes arising from any agreement or relating to any agreement, Product and/or pertaining to these Conditions are subject to the exclusive jurisdiction of the competent Court in Amsterdam, the Netherlands.