

GENERAL CONDITIONS OF SALE

Last updated 2023-07-28

This is a legal agreement between you (meaning you as an individual if acting on your own behalf, or the company that you represent if you are acting on behalf of such company) and Audesse Automotive Inc. ("Audesse"). By placing an order or making a purchase of a product ("Product") from the Audesse store website (hosted on Shopify Inc., who provides us with the online e-commerce platform that allows us to sell our products and services to you) (the "Store"), you agree to these general conditions of sale ("Agreement") set out below, along with Audesse's Privacy Policy and Website Terms of Use. This Agreement may be updated by Audesse from time to time, and it is your responsibility to review this Agreement each time you make a purchase from Audesse.

BY CLICKING ON THE "I ACCEPT" BUTTON OR SIMILAR ACCEPTANCE MECHANISM, YOU ARE CONSENTING TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS SET FORTH BELOW. IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS SET FORTH BELOW, CLICK ON THE "I DO NOT ACCEPT" BUTTON OR OTHERWISE EXIT THIS PURCHASE PROCESS.

1 ORDERING

- 1.1 This Agreement shall apply to all orders for Product placed by you through the Store, or as otherwise referenced in a written agreement between you and Audesse. You acknowledge that the information contained on the Store may contain technical inaccuracies or typographical errors. The Store, all content available on the Store, and all related communications are provided on an "AS IS" basis. We make no representations or warranties as to the completeness, accuracy, adequacy or reliability of any information contained on the Store.
- 1.2 To place an order, you must:
 - a provide up-to-date, complete and accurate registration information as requested by us, which may include your first and last name, institution name, mailing address, phone number and email address;
 - b provide up-to-date, complete and accurate credit card information for a credit card that is valid and legally registered to you, or other payment information reasonably acceptable to Audesse and/or Audesse's third party payment processor; and
 - c be at all times in compliance with the terms and conditions of this Agreement and applicable law, including the requirement to be 18 years of age or older.
- 1.3 You specifically agree that Audesse may rely on the accuracy of the information provided by you to Audesse, and that Audesse will have no liability whatsoever, whether to you or to any third party, for any claims or damages resulting from inaccurate information provided to Audesse.
- 1.4 All Products are intended for end-user customers only. You may not purchase Products for resale, and we reserve the right to refuse or cancel your order, or to deny you any return rights, if we suspect you are doing so. In the event that you utilize and/or integrate the Products in conjunction with your own or any third party products, and provide the Products to any third party as a component of your own or any third party product, you are solely responsible for any such use, integration and provision; the rights you have herein are not transferable to any third party. Audesse expressly disclaims all liability for any claims, losses or damages relating to your products, including the result of any integration of the Products as described above, and you agree to indemnify Audesse against all such claims, losses and damages in accordance with the indemnity provisions set forth in this Agreement.

2 DELIVERY AND SHIPPING

- 2.1 All orders are subject to acceptance by Audesse, and any rejection of an order shall be made in Audesse's sole discretion. If you have been charged for an order that is subsequently rejected by Audesse, Audesse will refund the amount of that order to you, by a method chosen by Audesse in its sole and reasonable discretion. No changes to accepted orders are permitted without the express consent of Audesse.
- 2.2 Audesse will make reasonable efforts to accommodate your delivery requirements; however, delivery is subject to availability of resources at the time of order placement. Audesse shall

therefore not be liable in any way for any delay or damage arising from Audesse's failure to meet your delivery requirements or any delivery dates.

- 2.3 All shipments shall be made FCA Audesse's facilities (Incoterms 2000), using the carrier and shipment methods available through the Store. Risk of loss for products shall pass to you upon delivery to the carrier, and you are responsible for pursuing the carrier for any loss occurring in transit.

- 2.4 You are responsible for examining all shipments promptly upon receipt. If you discover any shortages or incorrect products in the shipment, you must notify Audesse immediately. Please check the order carefully, as no claim for shortages or deficiencies will be accepted by Audesse after five (5) days from delivery of the products.

3 **PRICING AND PAYMENT**

- 3.1 All prices are in Canadian dollars unless otherwise expressly stated in writing. Where you are making payment in a currency other than Canadian dollars, the currency exchange rate that applies is the one in effect at the time your payment is processed, not the one that was in effect on the date that you placed your order. Audesse reserves the right to change its standard prices without notice.

- 3.2 Prices are exclusive of, and you will pay: (a) all applicable federal, state, provincial and local taxes (including all applicable sales, use, consumption, goods and service, value added, and withholding taxes), unless you have provided Audesse with an appropriate tax exemption certificate or number, and (b) all fees and charges related to shipping, customs, duties and brokerage. Audesse may charge sales tax for sales of Products. Any sales tax and shipping fees charged will be indicated during the checkout process.

- 3.3 At the time that you order the Product, you must provide up-to-date, complete and accurate credit card information for a credit card that is valid and legally registered to you, or other payment information reasonably acceptable to Audesse and/or Audesse's payment processor. By ordering the Product, if paying by credit card, you authorize Audesse to charge the credit card for the price of the Product upon shipment of such Product to you. If your order is a pre-order for Product that is not yet available, you may cancel such pre-order without penalty at any time up to the shipping date. Audesse may utilize a payment processor to manage orders and payments. Your credit card statement may therefore reflect a third party name in relation to your order.

- 3.4 Where your credit card or payment information is rejected for any reason, you will be responsible for any fees and charges associated with such rejection, as well as interest on the amount owing. Interest will be the lesser of 1.5% per month or the maximum rate permitted by law, commencing on the date that your credit card was rejected. Audesse may, in its sole discretion, delay shipment of, or cancel, your Product order where your credit card or other payment information is rejected.

4 **SUPPORT**

- 4.1 Audesse will make commercially reasonable efforts to provide support to advise you on the use of the Product (which may be by telephone, e-mail or other electronic communication medium, as indicated on the Store website or Audesse's website), and to aid in resolving issues with the Product, between the hours of 9:00 a.m. and 5:00 p.m. Eastern time Monday through Friday except for Canadian national or statutory holidays. Audesse shall further make commercially reasonable efforts to direct all critical calls to the appropriate support staff and to respond to issues in a timely fashion. Such support is limited to assistance respecting standard functionality of the Product in the form provided by Audesse.

- 4.2 Any support requests respecting:

- 4.2.a integration or implementation of the Product; or

- 4.2.b development or support of software to communicate with the Product firmware.

shall be subject to a separate quote by Audesse containing Audesse's then-current fees for such support services, and terms and conditions relating thereto. Audesse reserves the right to refuse any such requests.

- 4.3 Audesse may provide you with documentation that Audesse deems appropriate to the Product, and may update such documentation from time to time in Audesse's sole discretion. You may distribute such documentation internally only, and shall not, without express prior written authorization from Audesse, alter, modify or otherwise tamper with the content or appearance of the documentation or any part thereof.

5 RETURNS

- 5.1** Products may be returned to Audesse within thirty (30) days of delivery for credit, if the Products are unused, in a new and intact condition, and in their original containers, subject to Audesse's return procedures. Shipping of all returns is your responsibility and at your sole expense. Please consult Audesse for details about its return procedures. You acknowledge that this 30 day return policy is considered in satisfaction of applicable statutory "withdrawal rights" or "cooling off periods", and you waive all such statutory rights.

6 TITLE, INTELLECTUAL PROPERTY AND USE RESTRICTIONS

- 6.1** Title to any Products bought by you shall pass to you upon your full payment for such Products in accordance with Section 3.
- 6.2** You do not acquire any intellectual property or other proprietary rights under this Agreement, including without limitation any right, title or interest in and to patents, copyrights, trade-marks, industrial designs, confidential information, or trade secrets, whether registered or unregistered, relating to the Product. Any rights not expressly granted under this Agreement are reserved. For greater certainty, title to software shall not pass to you, and your use of any software included with the Product is subject to the license terms applicable thereto.
- 6.3** Audesse reserves the right to make changes in the design of the Product (or any other of its products or services) without the obligation to make equivalent changes to Products that have previously been supplied to you.
- 6.4** You acknowledge that the Product is intended to function as an IoT retrofit electronic control unit. You are responsible for the selection, implementation, and performance of any and all third party equipment and software used in connection with the Product, and for compliance with any licenses, conditions, laws, rules and/or regulations respecting the use of the Product and any equipment, services or software used in conjunction with the Products. This includes all applicable laws, regulations and orders applicable to the export, re-export, transfer or resale of Product. You also acknowledge that Audesse will not take, and will not be required to take, any action contrary to such applicable laws.
- 6.5** You acknowledge and agree that Audesse will exercise no control over your use of the Product, that you are solely responsible for complying with the provisions of this Agreement and all applicable laws, ordinances, codes and regulations of governmental agencies (including import and export laws and regulations), including federal, provincial, state, municipal and local governing bodies, of any country having jurisdiction over your use of the Product, and that Audesse has no liability whatsoever relating to your usage of the Product. Without limiting the foregoing, the Product is not intended for any use where failure or fault of the Product could directly or indirectly cause risk or damage to life or property, or in any mission-critical or time-sensitive application. Any such use is entirely at your discretion and risk, and shall void the warranty contained in this Agreement. You will be solely responsible for (and Audesse disclaims) any and all loss, liability, or damages resulting from such use, and you agree to indemnify, defend and hold Audesse harmless from any claims for losses, costs, damages, or liability arising out of or in connection with your use of the Product, except to the extent solely caused by Audesse's material breach of this Agreement, gross negligence or wilful misconduct.
- 6.6** Except as expressly provided herein, you shall not:
- i copy, reproduce, modify, enhance, improve, alter, reverse engineer, disassemble, deconstruct, translate, decrypt, reverse compile or convert into human readable form the Product or any part thereof (including the software);
 - ii distribute, assign, license, sublicense, lease, rent, transfer, sell or otherwise provide access to the Product, in whole or in part, to any third party, unless the Product is sold in its entirety to a third party who has agreed in writing to comply with the terms of this Agreement;
 - iii remove, deface, cover or otherwise obscure any proprietary rights notice or identification on the Product (including without limitation any copyright notice);
 - iv copy any written or electronic materials accompanying any portion of the Product unless specifically authorized in writing to do so by Audesse; or
 - v authorize, permit or otherwise acquiesce in any other party engaging in the activities set forth in (i), (ii) (iii) or (iv) above, or attempting to do so

7 WARRANTY

7.1 Audesse warrants that, for a period of ninety (90) days from the date that the Product is delivered to you by Audesse: (a) the Product will comply with Audesse's specifications for such Product, and (b) the Product will be free from material defects in material, design and workmanship. This warranty is valid only for the original purchaser of a new Product obtained from Audesse, and shall not survive any transfer of ownership of the Product. The foregoing warranty shall be subject to the following provisions:

7.1.a You must follow Audesse's return policy, available upon request, and obtain a valid, written Return Materials Authorization (RMA) from Audesse as part of the warranty return process. Audesse reserves the right to refuse or return any Product sent back without an RMA.

7.1.b If you notify Audesse of any such material defects or non-conformance within such ninety (90) day period and obtain the applicable RMA, Audesse will, at its option, repair or replace the Product. If Audesse is unable to repair or replace such Product within a reasonable timeframe, Audesse will refund you the amounts paid for such defective or non-conforming Product. All shipment of such Product is at your expense, unless Audesse determines that the warranty request was valid, in which case Audesse will cover shipping expenses at the standard, not expedited, rate.

7.1.c Audesse may, at its option, use new or refurbished or used parts in good working condition to repair or replace any Product. Any replacement Product will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer, or for such minimum time period as required by the jurisdiction in which you reside.

7.1.d The above warranty shall not apply to defects or non-conformities resulting from: (a) use of the Product in a manner contrary to, or not in accordance with, the documentation (including this Agreement), guidelines or instructions provided by Audesse (including any neglect, misuse or mistreatment), (b) any modification, maintenance or repair of the Product by anyone other than Audesse, (c) normal wear and tear, (d) external causes such as, but not limited to, power failure or electrical power surges, or (e) your breach of this Agreement.

7.1.e Audesse does not warrant that the operation of the Product will be uninterrupted or error-free. Additionally, the foregoing warranty does not apply to any software provided to you, except to the extent that the Product does not comply with this warranty solely due to firmware issues that are not excluded under this section. All Audesse software is provided "AS IS", and subject only to the license terms applicable to such software.

7.1.f Audesse has the right to review your Product usage data in relation to any warranty request made by you, to fully investigate your warranty claim, and you agree to provide any information reasonably requested by Audesse as necessary to investigate your warranty claim.

7.2 The warranty set forth in this section is the exclusive warranty made by Audesse to you. Audesse disclaims all other representations, warranties and conditions, whether express or implied, including but not limited to any express or implied representations, warranties or conditions of merchantability, merchantable quality, fitness for a particular purpose, durability, title, non-infringement, or any other warranty or condition arising by statute, custom or usage of trade related to the Product provided hereunder. Some jurisdictions may not allow the exclusion or limitation of implied warranties and conditions. To the extent permitted by law, any implied warranties or conditions relating to the Product to the extent that they cannot be excluded as set out above are limited to ninety (90) days from the date that the Product is delivered to you.

7.3 No production and/or usage warranty is granted for products before an application review by Audesse Engineering is conducted. This review is typically conducted as part of the Production Supply Agreement and includes a comprehensive assessment of the application's operating mode, environmental conditions, and I/O usage details. The aim is to ensure that the hardware is utilized in accordance with its design specifications. After approval of the application review, warranty usage can be measured in distance, hours of service, and time elapsed, subject to agreement by all parties.

8 LIMITATIONS OF LIABILITY

8.1 In no event will Audesse be liable under this Agreement for any damages other than your direct damages to the extent arising from Audesse's gross negligence or willful misconduct, and in no

event shall Audesse's aggregate liability exceed the amounts paid by you to Audesse for the Product that gave rise to the claim. No claim may be brought against Audesse, whether in contract, tort or otherwise, more than two (2) years after the Product was delivered.

- 8.2** EXCEPT FOR THE LIMITED DIRECT DAMAGES SPECIFIED IN THIS SECTION 8, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL AUDESSE BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, DATA, USE OR OPPORTUNITY, WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN, AND WHETHER OR NOT AUDESSE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9 CANCELLATION AND TERMINATION

- 9.1** Audesse may reject any orders upon written notice to you, and may also stop any Products in transit to you and suspend the delivery of Products to you without penalty, if: (a) you commit a material breach of this Agreement and fail to remedy such breach within thirty (30) days of receiving notice of such breach, or (b) you become involved in any legal proceeding concerning your solvency, have a receiver or administrator appointed of any of your assets, cease or threaten to cease operations, or otherwise have a serious and reasonable doubt arise respecting your solvency.

- 9.2** Additionally, Audesse may terminate this Agreement if: (a) it engages in any Product recall, whether voluntary or mandatory, or (b) it is required to do so by any law, regulation, requirement or ruling issued in any form whatsoever by any judicial or other governmental body, or (c) you fail to pay for the Product in full. Except as otherwise specified herein, neither party shall be entitled to terminate or cancel this Agreement except with the prior written consent of the other party. Upon notice pursuant to Section 9.1 above, or termination herein, you shall immediately cease use of the Product, and return the Product to Audesse. The foregoing shall be in addition to any other rights and remedies that Audesse may have.

10 DATA COLLECTION AND FEEDBACK.

- 10.1** You agree to promptly and accurately report to Audesse any actual or apparent errors, problems, nonconformities or other difficulties in using the Product, along with any other information reasonably requested by Audesse to aid in resolving such errors, problems, nonconformities or other difficulties, and hereby consent to the collection, processing, transmission and disclosure of such information by Audesse for the purposes of Audesse's internal use to improve the Product or other similar Audesse products or services. You hereby agree that Audesse shall own all Product feedback, ideas, concepts, or changes developed or identified in the course of this Agreement or as the result of your use of the Product, and all associated intellectual property rights therein (collectively the "Results"), and hereby assign to Audesse all right, title and interest thereto. The foregoing shall not be deemed to transfer any ownership of developments that you develop to be compatible with the Product, provided that such developments are independently developed by you without breaching this Agreement. Nothing herein shall grant you the right to: (a) use the Product or the Results for the purposes of developing a Competitive Product or Service, or for assisting a third party to develop or improve a Competitive Product or Service, or (b) disclose the Results to any third party without Audesse's prior written consent, which will not be unreasonably withheld. "Competitive Product or Service" shall mean any product or service not provided by Audesse that is intended to be used as an IoT retrofit electronic control unit. You agree to cooperate fully with respect to signing further documents and doing such other acts as are reasonably requested by Audesse to confirm that Audesse owns the Results, and to enable Audesse to register or protect any associated intellectual property rights and/or confidential information.

11 COMPLIANCE WITH LAWS

- 11.1** Each party shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies (including import and export laws and regulations), including federal, provincial, state, municipal and local governing bodies, of any country having jurisdiction over its obligations hereunder. You agree to indemnify Audesse from any loss, claims, liability or damages arising out of your failure to comply with such laws, ordinances, codes and regulations.

12 **MISCELLANEOUS**

12.1 This Agreement constitute the entire agreement between the parties with respect to your ordering and purchase of the Product, and Audesse's sale of the Product to you, and supersedes all previous agreements relating to the subject matter hereof. This Agreement may not be altered, amended, or modified except in a written instrument executed by a duly authorized officer of Audesse. If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, any such provision shall be severable from this Agreement. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. The parties expressly agree that neither the United Nations Convention on Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act shall apply to this Agreement or to the sale of the Product to you. This Agreement, and all Product requirements, shall be governed by, and construed in accordance with, the laws of the Province of Ontario. It is the express will of the parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

13 **CONTACT.**

13.1 If you have any questions or inquiries regarding this Agreement, please contact Audesse at <https://www.audesseinc.com/contact/>. Please note that e-mail communications will not necessarily be secure, so please do not include credit card information or other sensitive information in your e-mail correspondence with us. For contractual purposes, you consent to receive communications electronically from us and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. This condition does not affect your statutory rights related to electronic communications.

14 **PRIVACY.**

14.1 Your personal information, if any is disclosed to Audesse, will be handled in accordance with Audesse's Privacy Policy. To view Audesse's Privacy Policy, please visit the following link: <https://www.audesseinc.com/wp-content/uploads/2020/09/Privacy-Policy.pdf>. Notwithstanding the foregoing, Audesse reserves the right at all times to disclose any information as it deems necessary to satisfy any applicable law, regulation, legal process or governmental authority. By submitting personal information to Audesse pursuant to this Agreement, including without limitation your name, address, e-mail address and credit card or other financial information, you consent to the collection, processing, transmission and disclosure of such information by Audesse for the purposes for which such information has been requested. You specifically agree that, by ordering Product from Audesse, you are hereby providing your express consent to communications from Audesse (including e-mail communications, both marketing and informational) respecting Audesse's products and services, including the Product.