

Terms & Conditions

Of purchase



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APPENDIX 1 – TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions apply:

"Acceptance Conditions"	has the meaning given in clause 7.2;
"Affiliate"	means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
"Applicable Law"	means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction;
"Bribery Laws"	means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010;
"Business Day"	means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;
"Conditions"	means the Customer's terms and conditions of purchase set out in this document;
"Confidential Information"	means any commercial, financial or technical information, information relating to the Deliverables, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by the Customer in performing its obligations under, or otherwise pursuant to the Contract;
"Contract"	means the agreement between the Supplier and the Customer for the sale and purchase of the Deliverables incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and statements of work;
"Control"	has the meaning given to it in section 1124 of the Corporation Tax Act 2010 and "Controls", "Controlled" and "under common Control" shall be construed accordingly;
"Customer"	means SRL Traffic Systems Limited, a company registered in England and Wales with number 03466427 whose registered office is at The Light House, Brooks Lane, Middlewich, England, CW10 0JG;

"Data Protection Laws"

means any Applicable Law relating to the processing, privacy and/or use of Personal Data, as applicable to either party or the Goods or Services, including: the GDPR; the Data Protection Act 2018; any laws which implement any such laws; any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and all guidance, guidelines and codes of practice issued by any relevant Data Protection Supervisory Authority relating to such Data Protection Laws (in each case whether or not legally binding);

"Data Protection Supervisory Authority"

means any regulator, authority or body responsible for administering Data Protection Laws;

"Deliverables"

means the Goods, Services, and/or other deliverables as the case may be as more particularly described in the Order;

"Documentation"

means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Deliverables;

"GDPR"

means the General Data Protection Regulation, Regulation (EU) 2016/679;

"Goods"

means the goods and related accessories, spare parts and Documentation and other physical material set out in the Order or understood by the parties to be included in the Goods and to be supplied by the Supplier to the Customer in accordance with the Contract;

"Intellectual Property Rights"

means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in software, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case (i) whether registered or not; (ii) including any applications to protect or register such rights; (iii) including all renewals and extensions of such rights or applications; (iv) whether vested, contingent or future; (v) to which the relevant party is or may be entitled; and (vi) in whichever part of the world existing;

"IPR Claim"

has the meaning given in clause 11.2;

"Location"

means the address or addresses for delivery of the Goods and performance of the Services as set out in the Order or such other address or addresses as notified by the Customer to the Supplier at least 5 Business Days prior to delivery;



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"Modern Policy"	Slavery	means the Customer's anti-slavery and human trafficking policy in force and notified to the Supplier from time to time;			that person's personal representatives, successors and permitted assigns;
"MSA Offence"		has the meaning given in clause 10.3.1(a);		1.2.3	a reference to a "company" includes any company, corporation or other body corporate, wherever and however incorporated or established; a reference to a gender includes each other gender; words in the singular include the plural and vice versa;
"Order"		means the Customer's order for the Deliverables to which these Conditions are appended;		1.2.4	any words that follow "include", "includes", "including", "in particular" or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
"Personal Data"		shall have the meaning given in the applicable Data Protection Laws from time to time and for the purposes of this Contract includes Sensitive Personal Data;		1.2.5	a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract; a reference to legislation includes all subordinate legislation made from time to time under that legislation; and
"Price"		has the meaning given in clause 3.1;		1.2.6	a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.
"Protected Data"		means Personal Data received from or on behalf of the Customer, or otherwise obtained in connection with the performance of the Supplier's obligations under the Contract;		1.3	A reference to writing or written does not include e-mail unless stated to the contrary in this Agreement.
"Services"		means the services set out in the Order and to be supplied by the Supplier to the Customer in accordance with the Contract;		1.4	Any obligation in the Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
"Specification"		means the description or Documentation provided for the Deliverables set out or referred to in the Contract; and		1.5	If there is any conflict or inconsistency between the documents forming the Agreement, the documents shall have priority in the following order: 1.5.1 the Order; 1.5.2 these Conditions; and 1.5.3 any other appendix.
"Supplier"		means the named party in the Contract who has agreed to sell the Deliverables to the Customer and whose details are set out in the Order;		2.	APPLICATION OF THESE CONDITIONS
"Supplier IPR Claim"		has the meaning given in clause 11.2;		2.1	These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
"Supplier Personnel"		means all employees, officers, staff, other workers, agents and consultants of the Supplier, its Affiliates and any of their sub-contractors who are engaged in the performance of the Services from time to time;		2.2	No terms or conditions endorsed on, delivered with, or contained in the Supplier's quotation, sales conditions, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Customer otherwise agrees in writing.
"VAT"		means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Deliverables; and		2.3	Each Order by the Customer to the Supplier shall be an offer to purchase Deliverables subject to the Contract including these Conditions.
"Warranty Period"		means, in respect of any Deliverables provided by the Supplier under this Contract, the period set out in the Order or, where no period is set out in the Order in respect of any Deliverables, 24 months.		2.4	An Order may be withdrawn or amended by the Customer at any time before acceptance by the Supplier. An Order shall lapse unless accepted by the Supplier before the expiry of 30 Business Days after the date of the Order. If the Supplier is unable to accept an Order, it shall notify the Customer in writing promptly and in any event within 5 Business Days.
1.2		In these Conditions, unless the context otherwise requires:			
1.2.1		a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any); any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;			
1.2.2		a reference to a "person" includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and			



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- 2.5 Acceptance of an Order by the Supplier shall occur when it is expressly accepted by the Supplier or by any other conduct of the Supplier which the Customer reasonably considers is consistent with acceptance of the Order.
3. **PRICE**
- 3.1 The price for the Deliverables shall be as set out in the Order or where no such provision is set out, shall be calculated in accordance with the Supplier's scale of charges as advised by the Supplier and received and acknowledged by the Customer before the date the Order is placed ("**Price**"). No increase in the Price may be made by the Supplier after the Order is placed by the Customer.
- 3.2 All Prices are fixed and the Price includes packaging, delivery, unloading, unpacking, shipping, carriage, insurance and all other charges or taxes related to the Goods and Services etc.
4. **PAYMENT**
- 4.1 The Supplier shall invoice the Customer for: (a) the Goods on or after the completion of delivery of the Goods or, if later, the Customer's acceptance of the Goods, (b) Services on or after the completion of performance of the Services or, if later, the completion of the Acceptance Conditions.
- 4.2 The Customer shall pay each validly submitted and undisputed invoice of the Supplier within 60 days of receipt.
- 4.3 Without prejudice to any other remedy, the Customer shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Supplier in accordance with clause 18.9.
- 4.4 Time of payment is not of the essence. Where sums due under the Contract are not paid in full by the due date, to compensate the Supplier for all loss from the Customer's breach, the Customer shall pay on the sum overdue interest (before and after judgment) on a daily basis until payment in full at the rate of 3 per cent per annum above the Official Bank Rate from time to time of the Bank of England. The Supplier acknowledges that this is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.5 VAT shall be charged by the Supplier and paid by the Customer at the applicable rate at the time the invoice was issued.
5. **CANCELLATION**
- 5.1 The Customer shall have the right to cancel the Order for the Deliverables or for any part of the Deliverables which have not yet been, in the case of Goods, delivered to, and in the case of Services, performed for, the Customer.
- 5.2 In relation to any Order cancelled or part-cancelled under clause 5.1, on receipt of validly issued and properly documented evidence, the Customer shall pay for:
- 5.2.1 in respect of any Goods, that part of the price which relates to the Goods which at the time of cancellation have been delivered to, commissioned for, manufactured and ready for delivery to, in transit to the Customer; and
- 5.2.2 in respect of any Goods, the costs of materials which the Supplier has purchased to fulfil the Order for the Goods which cannot be used for other orders or be returned to the Supplier's supplier of those materials for a refund; and
- 5.2.3 in respect of any Services, that part of the Price that relates to the Services which, at the time of cancellation have been paid for or contractually committed by the Supplier and cannot be cancelled.
- 5.3 To the maximum extent possible, the Supplier shall mitigate all costs relating to the Order immediately upon receipt of cancellation under this clause 5.
6. **DELIVERY AND PERFORMANCE**
- 6.1 The Goods shall be delivered by the Supplier, or its nominated carrier, to the Location on the date specified in the Order. Unless specified otherwise in the Order the Supplier shall deliver all Goods DDP (Incoterms 2020).
- 6.2 The Goods shall be deemed delivered on completion of unloading only of the Goods at the Location by the Supplier or its nominated carrier (as the case may be).
- 6.3 The Services shall be performed by the Supplier at the Location on the date(s) specified in the Order.
- 6.4 The Services shall be deemed performed on confirmation of completion of the Acceptance Conditions by the Customer in writing.
- 6.5 The Goods shall not be delivered and the Services shall not be performed in instalments unless otherwise agreed in writing by the Customer.
- 6.6 Each delivery of Goods or performance of the Services shall be accompanied by a delivery note stating:
- 6.6.1 the date of the Order;
- 6.6.2 the relevant Customer and Supplier details;
- 6.6.3 if Goods, the product numbers and type and quantity of Goods in the delivery;
- 6.6.4 if Services, the category, type and quantity of Services performed;
- 6.6.5 any special instructions, handling and other requests;
- 6.6.6 in the case of Services, details of the Supplier Personnel performing the Services;
- 6.6.7 in the case of Goods, whether any packaging material is to be returned, in which case the Customer shall, after the Goods are unpacked, make them available for collection by the Supplier at the Supplier's expense for a period not exceeding 14 days; and
- 6.6.8 any additional information requested by the Customer as set out in the Order.
- 6.7 Time of delivery or performance (as the case may be) is of the essence. If the Supplier fails to deliver any of the Goods or perform any of the Services by the date specified in the Order, the Customer shall (without prejudice to its other rights and remedies) be entitled at the Customer's sole discretion:
- 6.7.1 to terminate the Contract in whole or in part;
- 6.7.2 to purchase the same or similar Deliverables from another supplier;
- 6.7.3 to refuse to accept the delivery or performance (as the case may be) of any more Deliverables under the Contract;



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- 6.7.4 to recover from the Supplier all costs and losses resulting to the Customer from the failure in performance or delivery (as the case may be), including the amount by which the price payable by the Customer to acquire those Deliverables from another supplier exceeds the price payable under the Contract and any loss of profit; and
- 6.7.5 all or any of the foregoing.
- 6.8 The provisions of clause 6.7 shall not apply to the extent the Customer fails to make the Location available to the Supplier for performance of the Services.
- 6.9 If the Customer is unable or opts not to accept delivery of the Goods on the date or within the period set out in the Order, the Supplier shall store and insure the Goods pending delivery for no longer than 15 Business Days, and the Customer shall pay reasonable storage charges.
- 7. ACCEPTANCE, REJECTION AND INSPECTION**
- 7.1 The Customer shall not have accepted, or be deemed to have accepted, the Deliverables until the Acceptance Conditions are fulfilled and the Customer has notified confirmation of such to the Supplier in writing.
- 7.2 The "**Acceptance Conditions**" are that:
- 7.2.1 for Goods, the Goods and delivery note have been delivered to or at the Location;
- 7.2.2 for Services, the Services have been performed at the Location; and
- 7.2.3 all pre-delivery and post-delivery acceptance tests and inspections have been completed to the satisfaction of the Customer at its sole discretion acting reasonably;
- 7.2.4 the Customer has notified the Supplier in writing that the Deliverables have been delivered or performed (as the case may be) in full compliance with the Order and the Conditions of the Contract including this clause 7.
- 7.3 The Customer shall be entitled to reject any Deliverables which are not in full compliance with the terms and conditions of the Contract. Any acceptance of defective, late or incomplete Deliverables or any payment made in respect thereof, shall not constitute a waiver of any of the Customer's rights and remedies, including its right to reject.
- 7.4 If the Goods are rejected due to the volume of the Goods exceeding the tolerances (if any) specified in the Order, the Supplier shall promptly and at its own cost arrange for redelivery of the correct volume.
- 7.5 Any rejected Goods may be returned to the Supplier by the Customer at the Supplier's cost and risk. The Supplier shall pay to the Customer a reasonable charge for storing and returning any of the Goods over-delivered or rejected.
- 7.6 The Customer may require pre-delivery and/or post-delivery acceptance tests to be performed or to be carried out, at the Customer's option, either by the Customer or the Supplier, and the results of the tests shall be made available to the Customer.
- 7.7 The Customer may inspect and test the Deliverables during performance or during manufacture or processing prior to despatch, and the Supplier shall provide the Customer with access to and use of all facilities reasonably required.
- 7.8 Any inspection or testing of the Deliverables shall not be deemed to be acceptance of the Deliverables or a waiver of any of the Customer's other rights and remedies, including its right to reject.
- 7.9 The rights of the Customer in this clause 7 are without prejudice to the Customer's other rights and remedies under the Contract including under clause 9.
- 8. TITLE AND RISK**
- 8.1 Risk in the Goods shall pass to the Customer on the later of:
- 8.1.1 delivery of the Goods to the Customer as set out in clause 6; or
- 8.1.2 the Customer's acceptance of the Goods as set out in clause 7.
- 8.2 The Supplier shall unload the Goods in accordance with the Customer's directions and at the Supplier's risk.
- 8.3 Title to the Goods shall pass to the Customer on the sooner of:
- 8.3.1 payment by the Customer for the Goods under clause 4; or
- 8.3.2 delivery of the Goods to the Customer under clause 6.
- 8.4 The passing of title shall not prejudice any other of the Customer's rights and remedies, including its right to reject.
- 8.5 Neither the Supplier nor any other person shall have a lien on, right of stoppage in transit, or other rights in or to any Goods title to which have vested in the Customer or any specifications or materials of the Customer, and the Supplier shall ensure that relevant third parties accept the exclusion of such lien and rights.
- 8.6 The Supplier warrants and represents that it:
- 8.6.1 has at the time the Contract is made full, clear and unencumbered title to the Goods, and the full, clear and unencumbered right to sell and deliver them to the Customer; and
- 8.6.2 shall hold such title and right to enable it to ensure that the Customer shall acquire a valid, unqualified title to the Goods and shall enjoy quiet possession of them.
- 9. WARRANTY**
- 9.1 The Supplier warrants and represents that it shall:
- 9.1.1 have all consents, licences and authorisations necessary to deliver and perform the Deliverables;
- 9.1.2 ensure the Contract is executed by a duly authorised signatory on behalf of Supplier;
- 9.1.3 provide high quality Documentation for the Deliverables;
- 9.1.4 ensure compliance and fulfilment of its obligations in accordance with the Order and the Contract;
- 9.1.5 observe, and ensure that the Supplier Personnel observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises including the Location;
- 9.1.6 ensure that the Supplier Personnel use reasonable skill and care in the delivery and performance of the Deliverables;



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- 9.1.7 keep the Customer fully informed of all activities concerning the Deliverables and provide the Customer with activity reports on request;
- 9.1.8 if so requested by the Customer, conduct a power on/off test; and
- 9.1.9 conduct such tests, including pre-delivery and post-delivery acceptance tests and inspections, in relation to the Deliverables prior to delivery or performance as the Customer may require at its sole discretion acting reasonably.
- 9.2 The Supplier warrants and represents that the Deliverables shall from acceptance and throughout the Warranty Period:
- 9.2.1 conform in all material respects to any sample, and to the quality and description of the Specification;
- 9.2.2 be free from defects in design, material and workmanship;
- 9.2.3 comply with all Applicable Laws, standards and best industry practice;
- 9.2.4 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- 9.2.5 if Services, be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13;
- 9.2.6 be fit for purpose and any purpose held out by the Supplier and set out in the Order and as otherwise required to meet the Customer's needs; and
- 9.2.7 any media on which the results of the Services are supplied shall be free from defects in material and workmanship and of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 9.3 The Supplier agrees that the approval by the Customer of any design or Specification provided by the Supplier shall not relieve the Supplier of any of its obligations under this clause 9.
- 9.4 The Supplier warrants that it understands the Customer's business and needs.
- 9.5 The Customer may reject any Deliverables that do not comply with clause 9.2 and the Supplier shall, at the Customer's option, promptly remedy, repair, replace, correct, re-perform or refund the price of any such Deliverables provided that the Customer serves a written notice on the Supplier within the Warranty Period that some or all of the Deliverables do not comply with clause 9.2.
- 9.6 The provisions of these Conditions shall apply to any Deliverables that are remedied, repaired, replaced, corrected or re-performed with effect from the date of the acceptance of the remedied, repaired, replaced, corrected or re-performed Deliverables.
- 9.7 The Customer's rights under these Conditions are in addition to, and do not exclude or modify, the rights and conditions contained in the Supply of Goods and Services Act 1982, s 12 to 16 and the Sale of Goods Act 1979, s 13 to 15.
- 9.8 The Customer shall be entitled to exercise its rights under clause 9 regardless of whether the Deliverables have been accepted under the Acceptance Conditions and notwithstanding that the Deliverables were not rejected following their initial inspection under clause 7.3.
10. **COMPLIANCE WITH LAW**
- 10.1 The Supplier shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.
- 10.2 The Supplier shall ensure that it, and shall procure that each Supplier Personnel shall not, by any act or omission, place the Customer in breach of any Bribery Laws. The Supplier shall comply with all Bribery Laws. The Supplier shall not make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage, or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere, and the Supplier shall ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.
- 10.3 The Supplier undertakes, warrants and represents that:
- 10.3.1 neither it nor any of the Supplier Personnel has:
- (a) committed an offence under the Modern Slavery Act 2015 (an "**MSA Offence**"); or
 - (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
 - (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; and
- 10.3.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy.
- 10.4 The Supplier shall ensure that it and any persons associated with it shall not by any act or omission commit, or cause, facilitate or contribute to the commission by any person including the Supplier of a Corporate Failure to Prevent Offence, a UK Tax Evasion Offence, or a Foreign Tax Evasion Offence as each of those terms and "**associated with**" is defined in Part 3 of the Criminal Finances Act 2017 and guidance published under it.
- 10.5 The Supplier warrants and represents that it has not, and to the best of its knowledge, information and belief, no Supplier Personnel has:
- 10.5.1 been investigated in connection with, or charged with having committed or facilitated the commission of any UK Tax Evasion Offence or any Foreign Tax Evasion Offence;
- 10.5.2 received any court orders, warrants, oral or written notices from a government prosecuting authority concerning any actual or alleged violation by it of any UK Tax Evasion Offence or any Foreign Tax Evasion Offence; or
- 10.5.3 received any report (including a report from the Supplier's external auditors, any Supplier Personnel or any other person) or discovered any evidence suggesting that the Supplier or any Supplier Personnel has committed or facilitated the commission of any UK Tax Evasion Offence or any Foreign Tax Evasion Offence,



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where "UK Tax Evasion Offence" and "Foreign Tax Evasion Offence" have the definitions given to them in Part 3 of the Criminal Finances Act 2017 and guidance published under it.

10.6 The Supplier shall immediately notify the Customer as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 10.

10.7 Any breach of clause 10 by the Supplier shall be deemed a material breach of this Contract that is not remediable and shall entitle the Customer to immediately terminate this Contract by notice under clause 16.1.1.

11. INDEMNITY AND INSURANCE

11.1 The Supplier shall indemnify, and keep indemnified, the Customer and its Affiliates from and against any losses, damages, liability, costs (including legal fees) and expenses which the Customer or its Affiliates may suffer or incur directly or indirectly from as a result of any:

11.1.1 subject to clause 11.2, alleged or actual infringement by the Supplier or its Affiliates of a third party's Intellectual Property Rights or other rights in connection with the supply or performance or manufacture of the Deliverables under the Contract ("**IPR Claim**");

11.1.2 claim made against the Customer or its Affiliates in respect of any losses, damages, liability, costs and expenses sustained by the employees or agents or any customer of the Customer or of its Affiliates or any third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Deliverables or from a direct or indirect breach or negligent performance or failure or delay in performance of the Contract by the Supplier;

11.1.3 defects in materials, quality, workmanship or performance of the Deliverables.

11.2 The Supplier shall not be liable pursuant to clause 11.1.1 to the extent the Customer:

11.2.1 does not notify the Supplier in writing setting out details of any IPR Claim of which it has notice as soon as reasonably possible;

11.2.2 makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of the Supplier (which shall not be unreasonably withheld or delayed);

11.2.3 does not let the Supplier at its request and own expense have the conduct of or settle all negotiations and litigation arising from IPR Claim; or

11.2.4 does not, at Supplier's request and own expense, give the Supplier reasonable assistance in the circumstances described above.

11.3 If any IPR Claim is made or is reasonably likely to be made against the Customer, the Supplier shall promptly and at its own expense either:

11.3.1 procure for the Customer the right to continue using and possessing the relevant Intellectual Property Rights; or

11.3.2 modify or replace the infringing part of the Intellectual Property Rights and without adversely affecting the functionality of the Intellectual Property Rights as set out in the Contract so as to avoid the infringement or alleged infringement,

provided that if, having used reasonable endeavours, neither of the above can be accomplished on reasonable terms, the Supplier shall (without prejudice to the indemnity above) refund the price paid by Customer in respect of the affected Intellectual Property Rights. Apart from the indemnity given by Supplier above, this shall be the Customer's sole remedy in respect of the infringing Intellectual Property Rights.

11.4 The Supplier shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom or such other country by agreement in writing with the Customer insuring the Services and any of the Customer's materials in the Supplier's possession against the usual risks, including accident, fire and theft, for their full replacement value until the risk in them passes to the Customer, and insuring against all other risks that a prudent Supplier should consider reasonable. On request, the Supplier shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable. The Supplier shall on request assign to the Customer the benefit of such insurance.

12. LIMITATION OF LIABILITY

12.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 12.

12.2 Subject to clause 12.4, the Customer's total liability shall not exceed an amount equal to the sum paid by it under the Order.

12.3 Subject to clause 12.4, the Customer shall not be liable for consequential, indirect or special losses or for any of the following (whether direct or indirect):

12.3.1 loss of profit;

12.3.2 loss of or corruption to data;

12.3.3 loss of use;

12.3.4 loss of production;

12.3.5 loss of contract;

12.3.6 loss of opportunity;

12.3.7 loss of savings, discount or rebate (whether actual or anticipated);

12.3.8 harm to reputation or loss of goodwill.

12.4 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

12.4.1 death or personal injury caused by negligence;

12.4.2 fraud or fraudulent misrepresentation;

12.4.3 any other losses which cannot be excluded or limited by Applicable Law;

12.4.4 any losses caused by wilful misconduct.



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13. INTELLECTUAL PROPERTY RIGHTS

All Specifications provided by the Customer and all Intellectual Property Rights in the Deliverables made or performed in accordance with such Specifications shall vest in and remain at all times the property of the Customer and such Specifications may only be used by the Supplier as necessary to perform the Contract. The Supplier assigns (or shall procure the assignment) to the Customer absolutely, with full title guarantee, all right, title and interest in any such Intellectual Property Rights, and the Supplier shall do all such things and sign all documents necessary in the Customer's opinion to so vest all such Intellectual Property Rights in the Customer, and to enable the Customer to defend and enforce such Intellectual Property Rights, and the Supplier shall at the Customer's request waive or procure a waiver of applicable moral rights.

14. CONFIDENTIALITY AND ANNOUNCEMENTS

The Supplier shall keep confidential all Confidential Information of the Customer and of any Affiliate of the Customer and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:

- 14.1.1 subject to clause 14.4, any information which was in the public domain at the date of the Contract;
- 14.1.2 subject to clause 14.4, any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- 14.1.3 subject to clause 14.4, any information which is independently developed by the Supplier without using information supplied by the Customer or by any Affiliate of the Customer; or
- 14.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.

14.2 This clause shall remain in force for a period of 5 years from the date of the Contract.

14.3 Subject to clause 14.4, the Supplier shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

14.4 To the extent any Confidential Information is Protected Data such Confidential Information may be disclosed or used only to the extent such disclosure or use is in compliance with and does not conflict with the provisions of clause 15.

15. DATA PROTECTION

15.1 For the purpose of this clause 15, "Data Controller", "Data Processor", "Process", "Processed", "Processing", "Data Processor" and "Sensitive Personal Data" (including special categories of Personal Data set out in Article 9(1) of the GDPR) shall have the meanings given to them in the Data Protection Laws.

15.2 The parties each acknowledge and agree that they may need to Process Personal Data relating to each party's representatives (in their respective capacities as Data Controllers) in order to (as appropriate): (a) administer and provide the Deliverables; (b) request and receive the Deliverables; (c) compile, dispatch and manage the payment of invoices relating to the Deliverables; (d) compile, dispatch and manage the payment of invoices relating to the Deliverables; (e) manage the Contract and resolve any

disputes relating to it; and/or (f) respond and/or raise general queries relating to the Deliverables.

15.3 Each party shall Process such Personal Data relating to each party's representatives for the purposes set out in clause 15.2 in accordance with their respective privacy policies. The parties acknowledge that they may be required to share Personal Data with their Affiliates and other relevant parties, within or outside of the EEA, in order to carry out the activities listed in clause 15.2, and in doing so each party will ensure that the sharing and use of this Personal Data complies with applicable Data Protection Laws.

15.4 Where and to the extent that the Supplier may Process Personal Data for and on behalf of the Customer as part of the provision of the Deliverables, the Supplier shall be deemed the Data Processor and the Customer shall be deemed the Data Controller.

15.5 The Supplier shall comply with the obligations imposed upon a Data Processor under the Data Protection Laws and shall cooperate with the Customer and take all such action as are necessary to enable the Customer to comply with its obligations under the Data Protection Laws and shall not perform its obligations under this Contract in such a way as to cause the Customer to breach any of its obligations under the Data Protection Laws, expressly and without limitation:

15.5.1 the parties shall agree and document the nature of the Processing in accordance with Article 28(3), and otherwise the Data Processor shall comply with the obligations set out in Article 28(2), (3), and (4) of the GDPR, any other duties as set out in the Data Protection Act 2018;

15.5.2 no Personal Data shall be transferred outside the EEA without the express approval of the Customer and such approval is subject to such further conditions or requirements of the Customer;

15.5.3 notification of any security breach, or breach of the Data Protection Laws by the Data Processor shall be made promptly and no later than 24 hours after the Data Processor became aware of such incident.

15.6 The Supplier shall indemnify and keep indemnified the Customer and each of its Affiliates from and against all losses suffered or incurred by the Customer and each of its Affiliates arising out of or in connection with claims and proceedings arising from any breach of the Supplier's obligations under this clause 15.

16. TERMINATION

16.1 The Customer may terminate the Contract or any other contract which it has with the Supplier at any time by giving notice in writing to the Supplier if:

16.1.1 the Supplier commits a material breach of the Contract and such breach is not remediable or, if capable of remedy, the Supplier fails to remedy that breach within 14 days after receiving written notice of the breach;

16.1.2 any consent, licence or authorisation held by the Supplier is revoked or modified such that the Supplier is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled;

16.1.3 if any encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the Supplier or if the Supplier makes any voluntary arrangement with its



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creditors or becomes subject to an administration order or has an administrator appointed or goes into liquidation or has a resolution for its winding-up passed (except for the purpose of amalgamation or reconstruction not involving insolvency where the resulting entity agrees to be bound by or assumes the obligations imposed on the Supplier) or anything analogous to any of these events under the law of any jurisdiction occurs in relation to the other party or if the other party ceases or threatens to cease to carry on business.

16.2 If the Supplier becomes aware that any event has occurred, or circumstances exist, which may entitle the Customer to terminate the Contract under this clause 16, it shall immediately notify the Customer in writing.

16.3 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Customer at any time up to the date of termination.

17. NOTICES

17.1 Any notice or other communication given by a party under these Conditions shall: (i) be in writing and in English; (ii) be signed by, or on behalf of, the party giving it (except for notices sent by email); and (iii) be sent to the relevant party at the address set out in the Order.

17.2 Notices may be given, and are deemed received:

17.2.1 by hand: on receipt of a signature at the time of delivery;

17.2.2 by Royal Mail Recorded Signed For post: at 9.00 am on the second Business Day after posting;

17.2.3 by Royal Mail International Tracked & Signed post: at 9.00 am on the fourth Business Day after posting; and

17.2.4 by email provided confirmation is sent by first class post: on receipt of a email from the correct address.

17.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 17.1 and shall be effective on the date specified in the notice as being the date of such change or, if no date is so specified, 2 Business Days after the notice is deemed to be received.

17.4 All references to time are to the local time at the place of deemed receipt.

17.5 This clause does not apply to notices given in legal proceedings or arbitration.

18. GENERAL

18.1 The rights and remedies provided in the Contract for the Customer only are cumulative and not exclusive of any rights and remedies provided by law.

18.2 The Supplier shall at the request of the Customer, and at the Supplier's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

18.3 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

18.4 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

18.5 Nothing in these Conditions purports to limit or exclude any liability for fraud.

18.6 No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

18.7 The Supplier may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Customer's prior written consent, such consent not to be unreasonably withheld or delayed.

18.8 Notwithstanding clause 18.7, the Supplier may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Customer prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Supplier acknowledges and agrees that any act or omission of its Affiliate in relation to the Supplier's rights or obligations under the Contract shall be deemed to be an act or omission of the Supplier itself.

18.9 The Customer shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Supplier under the Contract or under any other contract which the Customer has with the Supplier.

18.10 The Supplier shall pay all sums that it owes to the Customer under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

18.11 The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

18.12 The Supplier recognises that any breach or threatened breach of the Contract may cause the Customer irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Customer, the Supplier acknowledges and agrees that the Customer is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

18.13 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

18.14 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.



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- 18.15 No failure, delay or omission by the Customer in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 18.16 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Customer shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Customer.
- 18.17 A waiver of any term, provision, condition or breach of the Contract by the Customer shall only be effective if given in writing and signed by the Customer, and then only in the instance and for the purpose for which it is given.
- 18.18 The Supplier shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).
- 18.19 Except as expressly provided for in clause 18.20, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.
- 18.20 Any Affiliate of the Customer shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

19. GOVERNING LAW AND JURISDICTION

- 19.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).



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