



## Terms of Use of Website, Mobile Application Licence Agreement and Customer Agreement

Please read these terms and conditions carefully. They are binding on you. We recommend that you print a copy for reference.

This agreement (**Agreement** or **Customer Terms & Conditions**) is a legal agreement between you (User or Customer, in each case as defined below) and ITARMI UK Limited, incorporated in England and Wales with company number 09844175 and registered office at Kemp House, 152-160 City Road, London EC1V 2NX, United Kingdom (together with any ITARMI Group Company (as defined below), ITARMI, us or we) for:

- (i) the use of this and any updated or successor version of this ITARMI mobile application software and any associated media, code, electronic information or documents (collectively referred to as the App) and the ITARMI website at [www.itarmi.com](http://www.itarmi.com) (Website) (the Website and the App, together referred to as the Platform);
- (ii) any services provided or accessible through the Platform (whether such services are provided by ITARMI or any third party);
- (iii) any Assignments (as defined below).

We license use of the App to you subject to the terms of this Agreement and subject to any rules or policies applied by any appstore provider or operator from whose site, located at <https://play.google.com/store/apps> and <https://itunes.apple.com/gb/genre/ios/id36> (Appstore), the End-user downloaded the App (Appstore Rules).

We, or our licensors, are and remain the absolute owners of the entire Platform at all times. We do not sell any aspect of the Platform to you.

### OPERATING SYSTEM REQUIREMENTS

The App may require an Apple or Android Device (defined in Condition 1.5 below) with internet access and a minimum available memory of 30MB for iOS and 20MB for Android. The minimum operating systems we support are iOS11.0 and Android 4.4, although it is possible that the App may work on other operating systems.

### IMPORTANT NOTICE

The terms of this Agreement include, in particular, our **Privacy Policy** (defined in Condition 1.6), **Data Protection** (Condition 16) and our **Limitations on Liability** (Condition 17, especially 17.3, 17.8 and 17.9).



By downloading the App and clicking on the "accept" button or by visiting and continuing to use the Platform, you agree to the terms of this Agreement that are binding on you (together with other relevant terms and documents that are incorporated by reference into this Agreement). If you do not agree to the terms of this Agreement, we will not license the App to you and you must stop using the App now and delete any copies of the App. In this case your access will be terminated. You will also be unable to receive notifications about, or accept, Assignments through the App.

## SPECIFIC TERMS AND CONDITIONS

### 1. General Provisions

#### 1.1 In this Agreement, the following definitions apply.

**Acceptable Use Restrictions** means the restrictions, obligations and undertakings set out in Condition 5.

**Additional Fee** means the additional fee equal to the Restricted Engineer's highest hourly rate on the Platform multiplied by 400.

**Additional Fee Date** means the date that is 30 days following either the first day of your direct engagement with the Restricted Engineer or the first date of your referral to the third party (as the case may be) for the purposes of Condition 15.2.

**Administrative Services** means the booking, payment processing and administrative services we provide to you in respect of Direct Assignments.

**Alternative Engineer** means an Engineer who has the necessary qualifications and experience to carry out the relevant Assignment and who is or may be substituted for your assigned Engineer.

**Assignment** means any temporary or permanent assignment, role, project or other similar deliverable, whether performed remotely, or at the premises of an End User Client or other third party.

**Assignment Fee** means the fee payable by a Customer for an Assignment.

**Assignment Type** means work category and level of Assignment, as set out in the Platform.

**Background Checks** means enquiries relating to the identity, qualifications and certifications of an Engineer and certain related matters, in any such case, to the extent specified in the Platform.

**Business Day** means 9:30am – 5:30pm in the United Kingdom on any day (except for Saturday, Sunday or public holiday in England) when banks in London are open for business.

**Cancelled Assignment** means an Assignment that is cancelled.

**Channel Customer Services Agreement (CCSA)** means an agreement between us and a Channel Customer pursuant to which we deliver Managed Assignments to End User Clients of either the Channel Customer or a third party.

**Channel Customer** means a Customer whose business consists of or includes the provision of IT engineering services to third parties.

**Confidential Information** means any and all information (or copy or part thereof), regardless of how we disclose it, relating to our business, locations, operations, products, systems, and/or services, and/or to discussions, negotiations, and/or agreements between us (except for the terms of this Agreement), including, without limitation: (a) our proprietary information, technologies, know-how, processes, code, software and related documents, research, design details, specifications, and other information related to our current,



future and proposed products and services; (b) analyses, projections, statistics, forecasts, and other financial and accounts information; (c) customer lists and other customer information, sources of supply, sales, product, and marketing data and plans, business plans and models, and personnel and shareholder data; (d) any other confidential or proprietary information relating to our business or operations, or information designated as confidential or proprietary (or that the recipient should reasonably believe to be confidential or proprietary based upon the nature of the disclosure and the circumstances thereof) (e) all aspects of the Platform and all work product derived from the Platform;

**Control means** (i) the legal or beneficial ownership, directly or indirectly, of more than 50% of the issued share capital or similar right of ownership; or (ii) the power to direct or cause the direction of the affairs and/or general management of the company, partnership, statutory body or other entity in question, whether through the ownership of voting capital, by contract or otherwise.

**Customer, you or yourself** means any individual, company, partnership, corporate or statutory body, or other business, entity or organisation which requests the services of Engineers, together with any company, partnership, statutory body or other entity which from time to time is Controlled by the Customer or is under common Control (and, in the case of an individual Customer, shall also include any other individual connected or associated with such Customer).

**Customer Payment Terms** means our payment terms relating to Customers.

**Customer Representative** means any employee, partner, member, officer, agent, adviser, representative, consultant or owner of a Customer and any relevant Users, in any such case, with authority to request services or Assignments or otherwise to bind you in this Agreement and/or its performance.

**Customer Work Product** means Intellectual Property Rights in materials or deliverables that are created for a Customer and are within the scope of the Assignment for which the Customer has fully paid for the Assignment.

**Device** means mobile telephone, tablet or other handheld device. Direct Assignment has the meaning given by Condition 9.

**End User Client** means a Customer that is not a Channel Customer.

**Engineer** means (i) an engineer providing services in their individual capacity and (ii) any relevant Engineer Company through which an engineer provides their services.

**Engineer Company** means any personal service company, partnership, corporate body or other entity that offers to provide IT engineering services for Assignments.

Event Outside Our Control means any act or event beyond our reasonable control, including power failure, failure of public or private telecommunications networks, internet service provider failure, industrial action, epidemic, civil unrest, fire, flood, storms earthquakes, act of terrorism, acts of war or governmental action.

**Intellectual Property Rights** means all intangible and intellectual property rights, whether registered or unregistered, including patents, copyright, moral rights, trade marks and service marks, design rights, any right to sue for passing off or unfair competition, rights to inventions, know-how and trade secrets, rights in get-up, goodwill and trade dress, and any rights relating to utility models, computer software, source code and material, databases, business and domain names, rights to use and preserve the confidentiality of information and rights to apply for and be granted, renewals or extensions of, and rights to claim priority



from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**ITARMI Group Company** means ITARMI Holdco Limited and any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with ITARMI Holdco Limited (or any successor entity) as a holding company as defined in section 1159 of the Companies Act 2006.

**ITARMI Work Product** means (a) any Intellectual Property Rights which we have owned, had licensed to us, created, developed or derived either (i) prior to the date of this Agreement or (ii) independently during the term of this Agreement or after its termination, and (b) any other Intellectual Property Rights which are not specifically Customer Work Product.

**Licence Restrictions** means the restrictions, obligations and undertakings set out in Condition 4.

**Loss** means any directly or indirectly arising loss, liability, damage, costs, expense of any kind and however arising, including as a result of any claim (including any interest, penalties, fines, and reasonable legal or enforcement costs and expenses).

**Managed Assignment** means any Assignment, except for a Direct Assignment.

**Mandatory Deduction** means any amount required by law to be withheld or deducted from amounts due and/or payable (whether on account of any Tax or otherwise).

**NIC** means employer and employee national insurance contributions.

**New Agreement** means a new version of this entire Agreement.

**New Customer Payment Terms** means a new set of payment terms relating to Customers issued by us to replace the current Customer Payment Terms.

**Original Assignment** means an Assignment which has been accepted by and assigned to an Engineer and which is replaced by an Updated Assignment.

**Original Assignment Fee** means the Assignment Fee for an Original Assignment.

**Original Engineer** means the Engineer who has accepted and been assigned to an Original Assignment.

**Platform Fee** means the fee we charge you for Administrative Services relating to Direct Assignments.

**Privacy Policy** means our data privacy policy from time to time.

**Restricted Customer** means either (i) any Customer registered on our Platform, or (ii) any Customer to whom services are directly or indirectly provided by use of our Platform.

**Restricted Engineer** means any Engineer registered on our Platform.

**Supplemental Terms** means any supplemental terms, conditions and policies issued by us from time to time (for example, terms relating to specific services or promotions).

**Tax** means any taxes, NIC, social security contributions, duties, levies, imposts, governmental charges or similar in any jurisdiction (including any amounts deducted or withheld at source, or accounted for under any 'pay as you earn' or any self-assessment procedure) and any interest, surcharge and penalties in respect of the same.

**Third Party App** means any mobile application software that directly competes with the ITARMI App as a means of providing IT engineering or resourcing services to Customers.

**Third Party Site** means any independent website which is not under our control.



**Updated Assignment** means an Assignment in relation to which the start time, scope of work, location and/or the estimated duration is changed before the start of the Original Assignment.

**Updated Assignment Fee** means the Assignment Fee for an Updated Assignment.

**User, you or yourself** means any individual using the Platform, regardless of whether or not the individual is fully registered on the App.

**VAT** means value added tax or any similar Tax in any jurisdiction.

- 1.2 Any reference to Platform, Website or App shall include any services accessible through the same, including any updates or supplements to the same or any such services.
- 1.3 You acknowledge and agree that the following provisions will apply.
- (a) Except as set out in (b) below:
- (i) this Agreement entirely supercedes and replaces any earlier agreement with us;
- (ii) Supplemental Terms (available through the Platform and/or sent to you) will be treated as incorporated by reference in this Agreement and will be binding on you;
- (iii) if any Supplemental Terms conflict with this Agreement, the Supplemental Terms shall prevail unless they explicitly give priority to this Agreement;
- (iv) a New Agreement (either available through the Platform and/or sent to you) will entirely supercede and replace this Agreement and will be binding on you;
- (v) each time you access or use the Platform, you will be deemed to acknowledge and agree to this Agreement.
- (b) To the extent that the terms of a CCSA directly conflicts with 9.8 (Terms of Your Assignment), 16.9 (Data Protection), 17.9 (Limitation of Liability – maximum liability) and 18.2 (Termination) of this Agreement, the CCSA shall prevail for the period and to the extent that the CCSA is in force.
- 1.4 From time to time, updates to the App may be issued through the Appstore. Depending on the update, you may not be able to use any services available through the App until you have downloaded or streamed the latest version of the App and accepted any new terms.
- 1.5 You represent and warrant that you have obtained permission from the owners of any Devices that are in your possession or control, but not owned by you, to download or stream a copy of the App onto or through the Devices. You accept full responsibility for the use of the Platform on any Device, together with all phone call, data and internet usage charges.
- 1.6 Our Privacy Policy is available through the Platform. Our Privacy Policy shall apply to all services and personal information unless it states that a separate privacy policy applies. By using the Platform, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the Platform may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.
- 1.7 By using the Platform, you consent to us collecting and using technical information about the Devices and related software, hardware and peripherals for services that are internet-based or wireless to improve our products and services.
- 1.8 The Platform may contain links to Third Party Sites. We are not responsible for and do not endorse the content of Third Party Sites or their privacy policies and we make no recommendation of their products or services.



You will need to use your own independent judgement regarding your interaction with any Third Party Sites, including any purchase or use of any products or services accessible through them.

1.9 You confirm that you are at least 18 years of age.

1.10 Any words following the terms including, include, in particular or for example or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

## 2. CUSTOMER REPRESENTATIVES

2.1 You will ensure that all Customer Representatives from time to time will fully comply with the terms of this Agreement and you will be responsible for such compliance.

2.2 You will notify us immediately if you have reason to believe that there has been a breach of this Agreement by any Customer Representative and will use your best endeavours (at your own cost and expense) to assist us in remedying such breach.

## 3. LICENCE TO USE THE PLATFORM

3.1 We grant you a revocable, non-transferable, non-exclusive licence to use the Platform on your Devices, subject to the terms of this Agreement, the Privacy Policy and the Appstore Rules, incorporated by reference into this Agreement. We reserve all other rights.

3.2 You will only:

- (a) download the App onto an Apple or Android Device, in line with the operating system requirements specified in this Agreement and display, view and use the App on any Device for your own business purposes; and
- (b) use the App solely in your capacity as Customer and solely for the purposes of requesting the services of Engineers in relation to Assignments and receiving services we make available through the Platform.

3.3 You represent and warrant that all information you have provided about your identity and any other matters relating to you is correct and up-to-date. You acknowledge and agree that it is your sole responsibility to provide us with updated information in a timely manner whenever your relevant details change.

## 4. LICENCE RESTRICTIONS

4.1 You undertake:

- (a) not to copy any aspect or part of the Platform except where such copying is purely incidental to the normal use of the Platform or where it is essential for the purpose of back-up or operational security;
- (b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Platform;
- (c) not to make alterations to, or modifications of, the whole or any part of the Platform, or permit the Platform or any part of it to be combined with, or become incorporated in, any other programs;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Platform or attempt to do any such thing except to the extent that such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Platform with another software program, and provided that the information obtained by you during such activities:



- (i) is used only for the strictly minimum purpose permitted by law,
- (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
- (iii) is not used to create any software that is substantially similar to the Platform;
- (e) to keep all copies of the App secure and to maintain accurate and up-to-date records of the number and locations of all copies of the App;
- (f) to include our Copyright and Trademark Notice (available on the Website) on all copies you make of any aspect of the Platform on any medium (but nothing in this sub-paragraph shall be deemed to permit you to make copies);
- (g) not to provide or otherwise make available the App in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
- (h) to comply with all technology control or export laws and regulations that apply to the technology used or supported by the Platform;
- (i) not to collect or harvest any information or data from the Platform or our systems or attempt to decipher any transmissions to or from the servers running any services;
- (j) not to access all or any part of the Platform in order to build or develop an App, product or service that competes with the Platform;
- (k) not to attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform (excluding the terms of this Agreement) in any form or media or by any means, save as permitted by applicable law.

## 5. ACCEPTABLE USE RESTRICTIONS

### 5.1 You undertake not to:

- (a) use the Platform in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this Agreement, or act fraudulently or maliciously;
- (b) introduce or permit the introduction of, any virus, software, code, file, programme, device or similar into our network or information systems which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices;
- (c) infringe our intellectual property rights or those of any third party in relation to your use of the Platform;
- (d) transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the Platform;
- (e) use the Platform in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users.



## 6. INTELLECTUAL PROPERTY RIGHTS

6.1 You acknowledge and agree that:

- (a) all Intellectual Property Rights in the Platform and any ITARMI Work Product anywhere in the world belong exclusively and absolutely to us or our licensors;
- (b) the right to use the Platform is licensed (not sold) to you on a revocable, non-exclusive, nontransferable basis solely for the purposes of requesting the services of Engineers in relation to Assignments and receiving services we make available through the Platform;
- (c) you may not transfer the licence to use the Platform or create a sub-licence in respect of the same;
- (d) you have no rights in, or to, the Platform other than the licence to use it strictly in accordance with the terms of this Agreement;
- (e) you have no right to have access to the Platform in source-code form;
- (f) you irrevocably and unconditionally waive any moral or equivalent rights in relation to the Platform and any ITARMI Work Product; and
- (g) where required, at our request and reasonable expense, you will take all necessary steps (including executing all such assignments, registrations and other documents as we may reasonably require) in order to confirm or ensure that any ITARMI Work Product will exclusively and absolutely vest in and belong to us or our licensors.

6.2 You will not directly or indirectly assist or co-operate with any third party to infringe any of our Intellectual Property Rights or to act in any way which is or would be contrary to Condition 4 or Condition 5 if the third party's actions were or had been yours rather than those of the third party.

6.3 If you are a Channel Customer using the Platform, you will make your own Customer aware of our Intellectual Property Rights and promptly notify us if you become aware that your Customer is infringing our Intellectual Property Rights.

6.4 Any Customer Work Product:

- (a) belongs to you, not to us; and
- (b) is hereby licensed by you to us and any relevant Engineer on a non-exclusive basis solely for the purposes of completing any relevant Assignment for you and only for the duration of any relevant Assignments.

## 7. CONFIDENTIAL INFORMATION

7.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure and this can be demonstrated by written records;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
- (d) is independently developed by the receiving party and this can be demonstrated by written records.

7.2 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not used, disclosed or distributed by its employees, officers, advisers or agents in violation of this Agreement.





7.3 Each party shall (and shall procure that its employees, officers, advisers and agents):

- (a) hold the other's Confidential Information in confidence; and,
- (b) except as set out in Condition 7.4 below, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the performance of this Agreement (in which case, the disclosing party shall procure that the third party is bound by the same terms of confidentiality as set out in this Condition 7).

7.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Condition 7.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

7.5 Without limiting other available remedies, each party acknowledges that any breach of this Condition 7 may cause irreparable damage to the other party for which monetary damages may not be an adequate remedy and agrees that the other party shall be entitled to seek injunctive relief.

7.6 This Condition 7 will apply during the term of this Agreement and will survive for a period of five (5) years following its termination.

## 8. YOUR ASSIGNMENT REQUEST

8.1 You acknowledge and agree that you are solely responsible for selecting the correct Assignment Type for any Assignment that you request.

8.2 You represent and warrant that all information you have provided about yourself and your requested Assignment is fully correct and complete. You will immediately: (i) notify us if any of the information ceases to be correct and complete and (ii) provide any necessary corrections or amendments.

## 9. TERMS OF AN ASSIGNMENT

9.1 You acknowledge and agree that:

- (a) each Assignment is carried out under a separate contract for services that arises in respect of that individual Assignment;
- (b) no contract for services will exist during any period in between Assignments;
- (c) Engineers are self-employed, independent contractors who undertake Assignments on a business to business basis (and not as either your or our employee, officer, worker, agency worker or partner);
- (d) you will not seek to treat the Engineer as your employee, officer, worker, agency worker or partner (including not issuing the Engineer with Customer business cards, inviting the Engineer to social events of your company or business, or incorporating the Engineer into organisational/employee frameworks of your company or business);
- (e) you will not ask an Engineer to supervise or manage your employees;
- (f) in carrying out Assignments, Engineers will:



- (i) use their own professional expertise, judgment and experience; and
- (ii) not be subject to the supervision, direction or control of us, you or any Customer of yours or ours;
- (g) no Engineer has the authority to bind us or you to any contract, or to the burden of any liability, obligation, cost, expense or claim;
- (h) no Engineer is obliged to accept any new Assignment or Updated Assignment; and
- (i) we are not obliged to offer an Engineer any Assignments or any minimum number or length of Assignments during any given period.

9.2 You acknowledge and agree that when a Managed Assignment is arranged through the Platform:

- (a) it consists of a binding agreement between you and us for the performance of the Assignment;
- (b) we are responsible for the delivery Assignment to the extent explicitly agreed between you and us; (c) you are obliged to pay us the Assignment Fee and costs and expenses, as specified in this Agreement; and (d) the Assignment is subject to the terms of this Agreement.

9.3 You acknowledge and agree that when a Direct Assignment is arranged through the Platform:

- (a) it consists of a binding agreement between you and the Engineer for the performance of the Assignment;
- (b) the Assignment is not managed by us and we are not obliged to assign an Engineer to your Assignment or Updated Assignment;
- (c) we provide disclosed agency services to the Engineer;
- (d) you are obliged to pay the Assignment Fee and costs and expenses, as specified in this Agreement, to us as agent on behalf of the Engineer;
- (e) you pay us the Platform Fee for Administrative Services that we provide to you; and
- (f) the Assignment is subject to the terms of this Agreement.

9.4 The terms of an Assignment indicated through the Platform (including pricing, location, duration, start time and scope of work) are incorporated by reference into the Agreement and are binding on you.

9.5 You acknowledge and agree that the pricing policy for Assignments may change from time to time and it is your responsibility to remain informed about any current pricing policies. Any new pricing policy will immediately apply to Assignments. We may operate dynamic pricing at certain times, which means that the Assignment Fee may change while you are browsing. The Assignment Fee may not be increased once your Assignment has been accepted by and assigned to an Engineer, unless the Assignment is changed or cancelled.

9.6 We may take commercially reasonable steps to carry out Background Checks, but we do not guarantee the validity, accuracy or completeness of Background Checks, information or documents. On written request from you and subject to our Privacy Policy, we may agree to share with you relevant information and/or documents relating to the Background Checks so that you can take your own view.



- 9.7 If you receive a 1- or 2-star rating from an Engineer which you consider is unjustified, you may let us know in writing, the reasons why you consider this to be the case and any supporting documentation, and we shall carry out a review of the rating and the information, with your cooperation, and we shall (on the conclusion of any such review), determine in our sole and absolute discretion whether to uphold, adjust or remove the relevant rating.
- 9.8 Except to the extent prohibited by law, you will indemnify us (on an after-Tax basis) against any Tax or Loss we suffer as a result of or in connection with:
- (a) any breach by you of the terms of this Agreement, whether by act or omission (including any breach of any representations or warranties given by you);
  - (b) any Engineer on your Assignment being treated as your or our employee;
  - (c) you requiring us (in whatever context) to adopt or support a position which is contrary to or inconsistent with the position set out in Condition 9.1 above in relation to any Assignment;
  - (d) any deliberate, wilful, negligent or reckless act, omission or default in performing your obligations under this Agreement; and
  - (e) any claim brought by you, your insurer or any other person in relation to personal injury arising in connection with any Assignment (except to the extent that this is caused by our negligence).

## 10. PAYING FOR ASSIGNMENTS

- 10.1 Our Customer Payment Terms are available through the Platform and are incorporated by reference into this Agreement and are binding on you. By using the Platform, you acknowledge and agree to the Customer Payment Terms.
- 10.2 Any New Customer Payment Terms will be incorporated by reference into this Agreement and will be binding on you, unless we expressly state otherwise. By using the Platform, you will acknowledge and agree to the New Customer Payment Terms. New Customer Payment Terms shall be available through the Platform and/or sent to you.
- 10.3 Time for payment for Assignments will be of the essence under this Agreement.
- 10.4 You acknowledge and agree that any pre-agreed balance is made available at our absolute discretion, without prejudice to any of our rights (including payment for Assignments), the balance may be withdrawn at any time by us.

## 11. ESCALATION PROCEDURE

- 11.1 If any material issues arise in relation to an Assignment, you will:
- (a) e-mail us at **customerescalation@itarmi.com**; and
  - (b) call us immediately (using the call function of the App) if any issues are or are reasonably expected to become serious and/or urgent.
- 11.2 The availability and operation of the escalation procedure will not in any way be deemed to limit or restrict our rights under this Agreement, including our right to seek a remedy in respect of any breach of this Agreement.



## 12. CHANGING YOUR ASSIGNMENT

12.1 You acknowledge and agree that you will be charged the Original Assignment Fee and Original Engineer expenses incurred before you request the Updated Assignment if:

- (a) you request the Updated Assignment less than 24 hours before the agreed start of the Original Assignment; and
- (b) the Original Engineer rejects your Updated Assignment.

12.2 If a new Engineer is assigned your Updated Assignment, you will be charged the Updated Assignment Fee and agreed expenses (in addition to any amounts payable for the Original Assignment).

12.3 You acknowledge and agree that we may replace an Engineer assigned to a Managed Assignment with an Alternative Engineer if the assigned Engineer either:

- (a) is materially delayed or cancels the Assignment; or
- (b) wishes to substitute an Alternative Engineer; in which case, we shall:
  - (i) contact you using the method of communication that we reasonably consider is most appropriate in the circumstances
  - (ii) take reasonable steps within our control to prevent disruption or loss of continuity in your Assignment.

## 13. CANCELLING YOUR ASSIGNMENT

13.1 You acknowledge and agree that you will be charged the Assignment Fee if you cancel the Assignment less than 24 hours before the agreed start time of the Assignment together with associated expenses incurred before you cancelled the Assignment.

13.2 If you reasonably consider that the services of the Engineer are materially unsatisfactory, you may ask the Engineer to stop work and leave the Assignment. If this happens, you must immediately notify us by e-mail at **customerescalation@itarmi.com**, together with the Assignment reference number and a reasonable account of the circumstances. You acknowledge and agree that we may, in our absolute discretion, reduce, cancel or apply the full Assignment Fee and our decision will be binding on you.

## 14. ASSIGNMENTS: YOUR OBLIGATIONS

14.1 You agree that you will comply with the following minimum standards:

- (a) to procure that all Engineers are treated with respect and professional courtesy by you, your employees, agents, consultants and contractors and are given access to any relevant premises required in order to carry out the Assignment;
- (b) not to directly or indirectly make any request or demand or offer any benefit that amounts to bribery, corruption or undue or improper advantage of any kind;
- (c) to make all Engineers aware of relevant workplace procedures and policies (including health and safety) before an Assignment starts and reasonably assist Engineers in complying with them where necessary; and
- (d) to ensure relevant premises are in a condition reasonably required for the Assignment and fully comply with



- (i) workplace and public safety (for UK Assignments, this includes Health and Safety At Work etc. Act 1974, Management of Health and Safety at Work Regulations 1999, Health and Safety at Work (Northern Ireland) Order 1978 and Management of Health and Safety at Work (Northern Ireland) Regulations 2000 (as amended)), and
- (ii) any applicable labour, non-discrimination and similar rules;
- (e) to obtain any third party licences and consents (including access to premises) required for the Assignment;
- (f) not to request an Assignment that would constitute or result in a breach by you of any contract to which you are a party, a conflict of interest, or a breach of any duty or obligation owed by you to any third party.

14.2 You will not at any time communicate in any way with any Engineer in relation to any aspect of the Engineer's agreement with us, including Payment Terms.

## 15. NON-SOLICITATION

15.1 During the term of this Agreement and for a minimum of 12 months from its termination (however arising), you undertake not to (and to procure that your officers, employees, agents or advisers will not) solicit, induce or entice away:

- (a) any member of our staff for employment, partnership, consultancy, agency or any similar arrangement and you will notify us immediately if any member of our staff approaches you for the same;
- (b) any Restricted Engineer to engage them for an Assignment (except through the Platform during the term of this Agreement) and you agree to notify us immediately if any Engineer approaches you for direct engagement; or
- (c) any Restricted Customer to be or become your Customer in connection with any Third Party App (except to the extent that such Restricted Customer was already your Customer prior to you registering on our Platform and you can clearly demonstrate this with written records).

15.2 If you engage a Restricted Engineer for Assignments during the term of this Agreement or within 12 months of the termination of this Agreement (howsoever arising) or you refer a Restricted Engineer to a third party who directly or indirectly engages the Restricted Engineer, you acknowledge and agree that:

- (a) you will notify us immediately;
- (b) the Additional Fee will become due and payable in full on the Additional Fee Date; and
- (c) our Customer Payment Terms will apply to the Additional Fee, provided that the Additional Fee Date will arise without any requirement for an invoice to be delivered by us prior to that date (although we shall provide you with an invoice within a reasonable period of you notifying us of your engagement with the Restricted Engineer).

15.3 You acknowledge and agree that this Condition 15 is reasonable and necessary to protect our goodwill, legitimate business interests and confidential information.

## 16. DATA PROTECTION

16.1 For the purposes of this Condition 16:

- (a) "Data Protection Laws" means the Data Protection Act 2018 and General Data Protection Regulation (EU) 2016/679 and any equivalent laws in any country; and



- (b) “Data Controller”, “Data Processor”, “Data Subject”, “personal data”, “sensitive personal data”, “processing”, “restricted transfer” and “Information Commissioner” shall have the meaning given to them in the Data Protection Act 2018.
- 16.2 You acknowledge and agree that, for the purposes of the Data Protection Laws, we are the Data Controller and you are the Data Processor in respect of personal data that is processed in connection with this Agreement.
- 16.3 The Data Processor shall only process personal data in connection with this Agreement:
- (a) in accordance with the Data Controller’s instructions; and
  - (b) for the purposes expressly authorised by the Data Controller; except to the extent expressly required by law.
- 16.4 Each party to this Agreement warrants and undertakes to the other that it will process the personal data in compliance with all applicable laws, enactments, regulations, orders and similar rules, including the Data Protection Laws.
- 16.5 The Data Processor warrants and undertakes that, having regard to the state of technological development and the cost of implementing any measures, it will:
- (a) take all appropriate technical and organisational measures to ensure the security, integrity, availability and confidentiality of personal data and to prevent the unauthorised or unlawful processing of personal data or the accidental loss or destruction of, or damage to, personal data to ensure a level of security appropriate to:
    - (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
    - (ii) the nature of the data to be protected;
  - (b) take all necessary steps to ensure compliance with those measures by all of its employees, officers, agents, contractors, subcontractors and advisers from time to time (including ensuring that, of your staff, only those individuals who need to have access to the personal data are granted access to it and only for the purposes of the performance of this Agreement and those individuals are informed of the confidential nature of the personal data and the obligations set out in this Agreement);
  - (c) not sub-contract or delegate any of its obligations under this Condition 16 without express written consent from the Data Controller and, in such event, will: (i) minimise any distribution of such personal data amongst its employees in accordance with the principles of the Data Protection Laws; and (ii) procure compliance with this Condition 16 by employees, officers, contractors, sub-contractors, advisers or agents; and
  - (d) upon termination of this Agreement, immediately return to the Data Controller all personal data and certify that no copies have been made or retained by the Data Processor or any third party acting on its behalf.
- 16.6 In each case, the Data Processor shall maintain, in accordance with Data Protection Laws, written records of all categories of processing activities carried out on behalf of the Data Controller and provide reasonable access to such records to the Data Controller for the purpose of any reasonable or legally required review of compliance with Data Protection Laws.
- 16.7 In the event that either party becomes aware of a personal data breach in connection with any Engineers or services provided through the Platform, it shall promptly notify the other party of the personal data breach and provide the other party with full details.



- 16.8 You agree to indemnify us (on an after-Tax basis) against all Losses incurred by us or for which we become liable to another party due to any failure by you or your employees, officers, contractors, sub-contractors, advisers or agents to comply with your obligations under this Condition 16.
- 16.9 Each party will notify the other of a subject access data request where such personal data is held or had been disclosed under this Agreement and co-operate as necessary to fulfil such request or in relation to any complaint.
- 16.10 In respect of a restricted transfer of personal data (including the transfer of personal data from the EEA to outside the EEA), you will:
- (a) obtain our prior written consent before making any such transfer; and
  - (b) where required, enter into or procure that such transfer is carried out strictly in accordance with any applicable Data Protection Laws (including, where required, ensuring that the transfer is covered by appropriate safeguards specified in the Data Protection Laws).
- 16.11 You acknowledge and agree that you have no independent right to process the personal data of any Engineer (including for any marketing purposes), except as set out in our Privacy Policy or this Agreement or as required by law.

## 17. LIMITATION OF LIABILITY

- 17.1 You acknowledge and agree that the Platform has not been developed to meet your individual or specific requirements, and that it is therefore your sole responsibility to ensure that the facilities and functions of the Platform meet your requirements.
- 17.2 You acknowledge that Devices may vary in their ability to track and measure information and therefore the Platform may not provide consistent and accurate information at all times, including geo-location information. The level of accuracy of the information may also be dependent on where and/or how the Device is held.
- 17.3 Although we make reasonable efforts to update information in the Platform, we make no representations, warranties or guarantees, whether express or implied, as to the completeness, accuracy, reliability, suitability or availability of the content of the Platform. Any reliance you place on any information in the Platform or Third Party Sites is **strictly at your own risk**.
- 17.4 You acknowledge and agree that the Platform may be: (i) updated, altered or removed, from time to time, without notice to you, and (ii) unavailable during periods of maintenance and/or updates from time to time. You agree that we are not liable for any Loss that may arise directly or indirectly as a result of any interruption to services through the Platform during such periods.
- 17.5 We are not liable for any Loss arising as a result of us not assigning your Updated Assignment to an Engineer or not doing so within any specified timeframe.
- 17.6 We are not liable for any Loss as a result of an Engineer being delayed, cancelling an Assignment or similar.
- 17.7 We are not liable for any Loss as a result of any absence, invalidity, inaccuracy or incompleteness of Background Checks.
- 17.8 **In no circumstances will we be liable for any indirect, special, punitive, consequential or unforeseeable Loss, including any loss of data, opportunity, revenue or profits.**



17.9 **Our maximum aggregate liability to you** in respect of or in connection with this Agreement and its performance (whether such liability arises in contract, tort, negligence, misrepresentation, restitution breach of statutory duty or otherwise), in all circumstances and respect of all matters collectively will be limited to the following amounts respectively:

- (a) all Managed Assignments in any calendar year: £100,000 or the total amount of Assignment Fees paid by you in the year, whichever is lesser;
- (b) all Direct Assignments in any calendar year: £500 or the total amount of Assignment Fees paid by you in the year, whichever is lesser.

17.10 This Agreement does not exclude or limit the liability of any Engineer or us to you where it would be unlawful to do so (for example, liability for death or personal injury caused by the negligence of a Engineer or us, or liability for fraud).

## 18. TERMINATION

18.1 We may terminate this Agreement immediately for any reason, including:

- (a) if you commit a material or persistent breach of this Agreement; or
- (b) if you breach any of the Licence Restrictions or the Acceptable Use Restrictions.

18.2 If we terminate this Agreement pursuant to Condition 18.1, the entire price for all services purchased or agreed to be purchased by you shall be immediately payable by you without demand.

18.3 On termination for any reason:

- (a) all rights granted to you under this Agreement shall cease;
- (b) you must immediately cease all activities authorised by this Agreement, including your use of the App; and
- (c) you must immediately delete or remove the App from all Devices, and immediately destroy all copies of the App then in your possession, custody or control and certify to us that you have done so.

## 19. EVENTS OUTSIDE OUR CONTROL

19.1 We will not be liable or responsible for any Loss arising from or in connection with any failure to perform or delay in performing any of our obligations under this Agreement that is directly or indirectly caused by any Event Outside Our Control.

19.2 If an Event Outside Our Control takes place that affects the timing, manner or any other aspect of the performance of our obligations under this Agreement:

- (a) our obligations will be suspended and the time for the performance of our obligations will be extended for at least the duration of the Event Outside Our Control or longer as we require (in our absolute discretion); and
- (b) if we (in our absolute discretion) consider that it is commercially practicable for us to do so, we may try to find a solution by which your Assignment may be carried out despite the Event Outside Our Control, subject to you and us reaching agreement as to any revised costs and timing.





## 20. COMMUNICATION BETWEEN US

20.1 If you need to contact us in writing:

- (a) about this Agreement, you must send us an e-mail **customerterms@itarmi.com** or write to us by pre-paid first class post to our current registered address;
- (b) about payments, you must do this as set out in the Customer Payment Terms

20.2 If we need to contact you in writing, we shall use either the e-mail or postal details you have provided to us when registering for the Platform or we may send a message to your Devices.

20.3 Any written notice will be deemed to be given or served on the earliest of the following dates:

- (a) if sent by e-mail or a message to your Devices, the date on which it was sent; and
- (b) if sent by post or physical delivery:
  - (i) within the United Kingdom, the earlier of (A) the date on which it was received and (B) the next Business Day;
  - (ii) outside the United Kingdom, the date on which it was received.

20.4 If we need to contact you more urgently (for example, about the timing, location or performance of an Assignment), you acknowledge and agree that we may do so by telephone call or SMS/text message at the mobile telephone number you have provided to us.

20.5 You acknowledge and agree that you will be readily contactable for at least the period starting 48 hours before the start time for any Assignment and ending 48 hours after the end of the Assignment, including (i) reading and taking appropriate action in relation to any notifications that we may send you by e-mail or any message sent to your Devices, and (ii) receiving and/or returning telephone calls.

## 21. OTHER IMPORTANT TERMS

21.1 During the period of this Agreement and for at least 12 months following its termination, you will maintain adequate valid insurance cover with reputable insurers to cover your potential liability to any relevant Engineers and to us (including health care and related Losses).

21.2 You acknowledge and agree that the following provisions will apply.

- (a) any representation or warranty in this Agreement is expressed to be given on a specific date, it is deemed to be repeated by you:
  - (i) whenever you request an Assignment;
  - (ii) at the start of the Assignment;
  - (iii) the first Business Day of each week while the Assignment is ongoing;
  - (iv) when an Assignment is completed; and
  - (v) on the first Business Day of the calendar year.
- (b) When a representation or warranty is repeated, it is made by reference to the relevant Assignment and circumstances existing at the time of the repetition.

21.3 We will be entitled to allocate payments received from you to set off against or to settle (in full or in part) any sums due from you under any agreement, in any order or manner we determine, and in particular shall be entitled to apply any part payment to settle outstanding interest on overdue amounts, ahead of the principal.



- 21.4 Without prejudice to any of our other rights, if you fail to make any payment when due, we will be entitled to:
- (a) suspend our obligations under our Agreement with you (and this will not constitute a breach of the Agreement by us) for so long as any payment due has not been made; and/or
  - (b) charge interest on the overdue amount at the statutory rate, accruing on a daily basis and compounding monthly, and otherwise in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as well as any costs and expenses reasonably incurred in seeking to recover the amounts owed to us (including any legal costs and costs of debt recovery or similar agencies).
- 21.5 We may at any time assign, transfer, charge, subcontract or deal in any manner with any or all of our rights and obligations under this Agreement.
- 21.6 You may not, without our express prior written consent, assign, transfer, charge, subcontract or deal in any manner with any or all of your rights or obligations under this Agreement.
- 21.7 Nothing in the Agreement is intended or shall be construed to create a relationship of employment, agency, joint venture or partnership between us. Accordingly, except as expressly authorised in this Agreement, no party shall have any authority to act or make representations on behalf of the other party, and nothing herein shall impose liability on a party in respect of any liability incurred by another party to a third party.
- 21.8 If we fail to insist that you perform any of your obligations under this Agreement, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived, restricted or prejudiced our rights and remedies, given consent for any actions or omissions, and will not mean that you do not have to comply with those obligations. If we do waive a default by you, this will only be effective if we do so explicitly in writing, and any such waiver will not mean that we will be deemed to waive any later or continuing breach or default or any other breach or default by you.
- 21.9 We may satisfy any indemnity given by you or liability of yours in this Agreement (in whole or in part) by way of deduction or set-off from any current or future payment to you.
- 21.10 Each provision of this Agreement operates separately. If any court or competent authority decides that any provision is void, unlawful or unenforceable, then that provision shall be deemed severable and shall not affect the validity or enforceability of the remaining provisions, which shall remain in full force and effect. If any part of any provision is void, unlawful or unenforceable, the remainder of that provision shall be deemed severable and remain in full force and effect, to the extent permitted by law.



21.11 Condition 4 (Licence Restrictions), Condition 5 (Acceptable Use Restrictions), Condition 6 (Intellectual Property Rights), Condition 7 (Confidential Information), Condition 9.8 (Terms of Your Assignment), Condition 12.1-12.2 (inclusive) (Changing Your Assignment), Condition 13.1 (Cancelling Your Assignment), Condition 15 (Non-Solicitation), Condition 16 (Data Protection), Condition 17 (Limitation of Liability), Condition 18.2 (Termination), Condition 19.1 (Events Outside Our Control), Condition 20 (Communication between us), Condition 21 (Other Important Terms) and any rights or obligations of the parties hereunder that by their nature are reasonably intended to survive termination or expiration, shall survive termination or expiration of this Agreement, howsoever arising.

21.12 This Agreement, its subject matter and its formation, and any matter or dispute arising out of or in connection with it or performance under it are governed by English law, without giving effect to choice of law principles. You and we both irrevocably consent to the exclusive jurisdiction of the courts of England and Wales for any matter or dispute arising out of or in connection with this Agreement or performance under it.

