

TERMS AND CONDITIONS OF SUPPLY AND SALE AND/OR LEASE

In these terms and conditions ("**Conditions**") the following words and expressions shall have the following meanings:

Authorised User: an employee, agent or contractor of Customer to whom Customer grants access to the Software and permits to order Products;

Order: an order for the purchase or lease of Products or licence of the Software, which incorporates these Conditions;

Price: the costs and fees payable by Customer for the Products and / or Software as set out in an Order;

Products: any item of whatsoever nature or part thereof which is to be sold, leased or supplied by the Supplier including any labelling and packaging as described in the Order but excluding the Software and the Services;

Services: the services made available to Customer by Supplier through the Software or otherwise as specified in an Order;

Software: the web portal made available to Customer by Supplier for the purposes of ordering Products and receiving the Services;

Customer: the entity named in the Order;

Supplier: Hofy Ltd registered in England and Wales under company number 12507645;

Supplier Core Geography: mainland UK, mainland EU territories, and mainland United States;

Currency: the currency in which Supplier invoices the Customer;

Base Rate: the higher of 0% and the US Federal Reserve Bank key rate for customers billed in USD (United States Dollars), Bank of England base rate for customers billed in GBP (British Pound Sterling), or European Central Bank Fixed Tenders Rate for customers billed in EUR (Euros);

Quick Ship Product: any product marked as available for quick delivery on the Supplier's Software;

Option To Purchase Fee: the optional fee paid by the Customer to the Supplier in respect to transferring the ownership of a leased Product from the Supplier to the Customer; and

Data Capable Products: any products capable of storing digital data, including but not limited to computers and mobile devices.

1. Order and Acceptance

1.1. By placing any Order, Customer agrees these Conditions. These Conditions shall remain in place for so long as any Order remains active.

1.2. Customer or its Authorised Users may submit one or more Orders for Products or Software. Each Order shall be in writing (including by email or submitted through the Software) and shall specify:

1.2.1. the name of the Product(s) to be bought or leased, and whether the Customer wishes to purchase or lease each Product, and for what term;

1.2.2. the quantity of each Product;

- 1.2.3. in respect of Orders for Software only (without Products), the number of Authorised Users to be granted access and Software tier of choice; and
- 1.2.4. in respect of Products only, the delivery address or addresses.
- 1.3. An Order shall not be deemed to be accepted by Supplier until Customer confirms that it is authorised (where submitted by an Authorised User and not Customer directly) and Supplier confirms to Customer in writing (including by email or through the Software) that such Order is accepted. Any quote provided by Supplier is indicative only until confirmed in an Order.
- 1.4. The Supplier shall be entitled in its absolute discretion to accept or reject any Order received from the Customer and from time to time to extend or discontinue the range of Products or any part of it prior to the acceptance of any Order. Supplier shall promptly notify the Customer of any such acceptance, rejection or discontinuance.

2. Cancellations, Terminations, and Refunds of Product Orders

Cancellation of Product Orders prior to Supplier dispatch

- 2.1. Customer may withdraw without charge any Order prior to it being accepted by Supplier, by giving written notice (including through the Software). Once an Order has been accepted by the Supplier, it is final and binding and refunds shall only be issued in accordance with this clause 2.
- 2.2. If the Supplier fails to dispatch a Quick Ship Product by the later of (i) 10 working days of the Order date, and (ii) the preferred delivery date, the Customer shall be entitled to cancel the Order and receive a refund of the Price and Charges paid to the Supplier only in respect of those Quick Ship Products which the Supplier has failed to dispatch within 10 working days of the Order date.
- 2.3. If the Customer wishes to cancel an Order for a Product after an Order has been accepted by the Supplier, but before it has been dispatched by the Supplier, the Customer shall promptly notify the Supplier and the Customer shall be responsible for all costs (which shall not be less than £100 (GBP), €120 (EUR), \$140 (USD) as applicable, but not higher than the Price and Charges for the Order in relation to said product) associated with the Supplier preparing the Product for fulfilment to the Customer, including but not limited to re-stocking, packaging, assembly, disassembly, and repackaging.
- 2.4. No refund for cancelled Products shall be available where the Products have been customised or altered to the Customer's specification, including but not limited to branding with the Customer's logo, designed specifically for the Customer, or Products not in the Supplier's standard Products catalogue.

Termination of Product Orders after Supplier Dispatch

- 2.5. Once a Product Order is marked as Dispatched by the Supplier on the Software or by means of email confirmation to the Customer, any Product lease will be treated as active for the purpose of lease terminations and refunds.
- 2.6. If the Customer wishes to terminate a Product lease, the Customer shall inform the Supplier in writing of its intention to do so, as well as the Customer's preferred date for termination of the Product lease. The "**Cancellation Date**" shall be the later of (i) the Customer's preferred lease termination date, and (ii) 30 calendar days from the date the Customer notified the Supplier of the Customer's intention to terminate a Product lease.

Refunds

- 2.7. Subject to clauses 2.4, 2.6, 5 and 7, the Customer may be entitled to a refund of the pro-rated Price outstanding at the Cancellation Date less a termination fee (the "**Termination Fee**") calculated as follows:
- (a) if the total Price for the Product during the full lease period is less than or equal to £100 (GBP), €120 (EUR), \$140 (USD) in the relevant Currency, the Termination Fee is 100% of the pro-rated Price outstanding at the Cancellation Date; or
 - (b) if the total Price for the Product during the full lease period is greater than £100 (GBP), €120 (EUR) or, \$140 (USD) in the relevant Currency, the Termination Fee is the highest of (a) 80% of the pro-rated Price outstanding at the Cancellation Date, and (b) 80% of the total Price less £100 (GBP), €120 (EUR), or \$140 (USD) in the relevant Currency.
- 2.8. The Supplier shall process any refund due within 30 days of receiving the returned leased Products, provided that such Products are returned in the same state in which they were delivered to the Customer, fair wear and tear excepted.
- 2.9. Subject to clauses 2.1 to 2.4, in no event shall the Charges or the Price for sold Products, be refundable, except where required by applicable law.

3. Price and Payment

- 3.1. Unless otherwise stated in writing, the Prices estimated or quoted by the Supplier are exclusive of insurance charges, VAT and other applicable taxes, duties or levies of any kind whatsoever (together, the "**Charges**"), all of which are payable by the Customer in addition to the Price where applicable. Each Order accepted by the Supplier shall specify the Price and the Charges.
- 3.2. The Supplier will invoice customers in an agreed upon Currency which can be either GBP (British Pound Sterling) EUR (Euro) or USD (United States Dollar). The Currency may not be changed in the course of an Order.
- 3.3. The Price may be adjusted by the Supplier in its absolute discretion (which discretion shall not be subject to review) at any time prior to the acceptance of an Order upon notice being given by the Supplier to the Customer. The Supplier may not change the Price or Charges for an Order once the Order has been accepted by the Supplier.
- 3.4. Time shall be of the essence in respect of Customer's payment of each Order. Unless otherwise expressly stated in an Order, payment shall be due on or before the 30th day after the date of invoice and Supplier shall be entitled to issue each invoice on acceptance of the Order. In the case of leased Products, Supplier shall be entitled to charge the full lease amount on acceptance of the Order. Payments shall be made by the Customer in the agreed Currency by bank transfer to such bank account as the Supplier may from time to time notify in writing to the Customer.
- 3.5. Without prejudice to any other rights the Supplier may have, failure to pay the Price and Charges in full by the due date for payment shall entitle the Supplier, at the Supplier's sole discretion, to charge in addition to the outstanding amount, interest on the outstanding amount at the rate per annum of 4 per cent above the Base Rate from time to time calculated daily from the date the payment became due until the date payment is made.

4. Dispatch, Delivery and Installation of Products

- 4.1. The preferred delivery date and address for all Orders placed by the Customer must be agreed with the Supplier in writing. Where there is more than one delivery address in relation to delivery of the Products, there may be a separate delivery date for each delivery address. The Supplier shall notify the Customer at its earliest convenience if Supplier does not believe the order can be delivered on, or before the preferred delivery date.

- 4.2. Supplier shall use all reasonable endeavours to deliver the Products on the agreed date, however Customer acknowledges that Supplier is not responsible for third party delivery partners and subject to clause 4.3, Subject to clause 2.2., Customer shall not be permitted to reject any delivery which is made on a different date, whether before or after the agreed date.
- 4.3. The Customer shall accept delivery of the Products at the agreed time and point of delivery in accordance with these Conditions and the Customer shall reimburse the Supplier for any costs or expenses (including, without limitation, any re-delivery and storage costs) incurred by the Supplier as a result of the Customer failing to accept delivery or failing to provide the Supplier with such instructions and/or documentation as it shall require in order to effect delivery of the Products.
- 4.4. If, despite the Supplier's reasonable efforts, it is unable to deliver the Products to a delivery address specified by the Customer in the Order, due to any actions by the Customer including but not limited to not Customer not being contactable or rejection of the order by Customer and is unable to contact the Customer to re-arrange delivery of the Products to the delivery address within 10 working days of the original delivery date, the Supplier will no longer be obliged to deliver such Products and the Order will be treated as cancelled by the Customer, and clause 2 will accordingly apply.
- 4.5. The Customer agrees to inspect the Products upon delivery and inform the Supplier promptly in writing of any Products which are delivered in a damaged or defective state or of any shortfall in any delivery. Any shortfall in the quantity of Products delivered from that stated in any Order shall not give rise to a right to claim damages for breach of contract solely as a result of such shortfall but the Customer shall only be obliged to pay the Price and Charges for the quantity of the Products delivered.
- 4.6. Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Supplier to deliver any one of the instalments in accordance with the Order or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat any other contract with the Supplier as repudiated.
- 4.7. All Products supplied by the Supplier shall be at the Customer's risk immediately following delivery of the Products to the Customer. The Customer shall maintain appropriate insurance for delivered Products against all usual risks. Title in Products which are provided to Customer by way of sale shall pass to Customer upon Supplier's receipt of the full Price and Charges in respect of such Products.
- 4.8. The Customer shall ensure that the Products ordered are of a suitable size for their intended use and the Supplier does not accept responsibility where this is not the case. Supplier shall, where applicable, and for an agreed fee, install and assemble the Products at the delivery address. In the event that there is insufficient space available to install or assemble the Products at the delivery address, the customer may cancel the Order subject to clause 2. The Supplier will deduct from any amount refunded to the Customer any further costs incurred by the Supplier in relation to the on-site service provided, recovery and repackaging of the unwanted Product.
- 4.9. The Customer shall ensure that the Supplier has free and unobstructed access to the delivery addresses in order to deliver and install the Products including parking space for delivery vehicles. If applicable, the Customer shall ensure that parking permits are obtained in advance of delivery or installation. The Supplier reserves the right to recover from the Customer the costs of any parking incurred by it in connection with on-site installation and assembly of the Products.

5. Products subject to lease

- 5.1. This clause 5 shall apply only to the lease of the Products by the Supplier to the Customer. It shall not apply to the sale of the Products by the Supplier to the Customer.
- 5.2. All Products leased to the Customer shall remain the sole and absolute property of the Supplier until otherwise agreed and confirmed in writing by the Supplier.
- 5.3. The Products shall be leased to the Customer by the Supplier for such term as agreed between the parties in the relevant Order. The Customer may request a renewal of the lease upon notifying the Supplier at least 30 days prior to the start date of the proposed renewal date unless the Supplier consents to a shorter notice period. Customer acknowledges and agrees that the Supplier will only lease Products to the Customer for the duration of any applicable warranty period provided by the manufacturer of such Products.
- 5.4. If the Customer does not wish to renew the lease, the Supplier will contact the Customer in writing 30 days prior to the end of the current lease term to arrange collection of the Products at the Supplier's cost as set out in this clause 5. If the Supplier is unable to confirm collection for any Product within 7 days prior to the end of the term of the lease, the Supplier shall be entitled to charge the Customer one month's Price for such Product as specified in the Order.

Purchase of Leased Product

- 5.5. The Customer may purchase any Products leased from the Supplier at any time during the lease subject to paying the Supplier the Option To Purchase Fee, and settling all outstanding Price and Charges related to that leased Product as agreed in the relevant Order.
- 5.6. Unless otherwise agreed between the Customer and the Supplier, the Option To Purchase Fee for a Product will be calculated as 6 times the 36-month lease rate for that Product.
- 5.7. The Supplier will notify the Customer in writing of the receipt of all monies due from the Customer and confirm that it no longer holds an interest in the leased Product within 30 days of receipt of such monies.
- 5.8. Title in a Product, as well as any and all legal and financial and other obligations related to the ownership of the leased Product will be automatically transferred from the Supplier to the Customer when the Supplier confirms to the Customer that all monies due from the Customer have been paid to the Supplier, following which the Supplier shall have no further liabilities in respect of the Product.
- 5.9. The Supplier offers no guarantees as to the condition of the leased Product being purchased by the Customer.

Lease of Data Capable Products

- 5.10. The Supplier can assist with configuration services on Data Capable Products, including computers and mobile phones, sourced by the Supplier subject to clauses 5.11 to 5.16.
- 5.11. The Customer should specify a configuration service and approach which does not provide the Supplier with access to any Customer personal or confidential information, or the ability to access, manage, or disable Data Capable Products once these have been shipped to the Customer.
- 5.12. Prior to requesting that the Supplier carries out any such configuration services, Customer shall secure valid licences for all licensed tools and applications being installed on the Products. If at any time, Supplier reasonably believes that Customer does not have a valid

licence, Supplier may immediately terminate its configuration services or request further assurances that Customer has valid licences.

- 5.13. The Supplier may refuse, in its sole discretion, to provide configuration services when the Supplier reasonably believes that the configuration services requested by the Customer may place the Supplier in breach of its data privacy policy or any relevant data processing or handling, or data privacy laws. Notwithstanding the forgoing, the Customer is solely and wholly responsible for ensuring that the device configuration service requirements requested from the Supplier are compliant with Customer's own data processing and handling policies, as well as laws in relevant jurisdictions.
- 5.14. The Customer is solely and wholly responsible for keeping its own data safe and secure, including but not limited to the encryption and back-up of any data stored locally in leased Products.
- 5.15. The Customer will ensure that any leased Products are devoid of any personal or confidential information before requesting the Supplier to recover the Product. In the event that the Customer is unable to remove personal or confidential data from a Product, it must notify the Supplier prior to the Supplier collecting the Product.
- 5.16. In the event that the Supplier finds personal or confidential information on a Product recovered from the Customer it will notify the Customer immediately and either arrange secure delivery of the Product to an address provided by the Customer, or the destruction of Product including all data stored therein at the Customer's expense.

Collection of Leased Products

- 5.17. Where the Supplier has leased Products to the Customer, the Supplier agrees to recover at the Supplier's own cost those Products at the end of the agreed lease term.
- 5.18. The Customer shall ensure that all Products are emptied of personal belongings before they are collected, and the Supplier shall not be liable for any loss or damage in respect to any personal belongings as a result of the Customer's failure to do so.
- 5.19. The Customer shall provide the Supplier with reasonable access to the Products in order to effect their recovery in accordance with this clause 5.
- 5.20. If the collection address is in a different country or territory from the delivery address specified in the Order, the Supplier reserves the right to charge the Customer for any additional costs associated with the collection, transport and/or disposal of the Products from the collection address.
- 5.21. The Customer agrees that the Customer or its representative shall be present at the time of any collection of the Products in order to sign the Supplier's collection note and confirm that the Products being collected are in the same condition as they were when initially supplied by the Supplier to the Customer subject to reasonable wear and tear. If Customer or its representative is not available at the time of collection, Customer shall not be permitted to contest any assessment by the Supplier as to the condition of the Products being collected.
- 5.22. The Customer acknowledges and agrees that the Supplier shall check the Products for any damage at the time of collection of such Products. The Customer further acknowledges and agrees that the Supplier shall have the right to charge the Customer for costs associated with the repair of any damage that is reasonably considered by the Supplier to be beyond reasonable wear and tear or, where such damage is not capable of being repaired or where the cost of doing so exceeds the cost of replacing the Product, the Customer agrees that the Supplier has the right to charge the Customer for the cost of replacing the Product.

- 5.23. The Supplier will endeavour to collect any Product from the Customer on a date agreed with the Supplier subject to clause 5.4. The Supplier will confirm a collection date within 3 working days of receiving a collection request from the Customer. The Supplier will communicate the date on which it intends to collect the Product from the Customer (the “**Collection Date**”) no later than 2 working days prior to the Collection Date. The Supplier will provide the Customer with a 4-hour collection window during which the Supplier will collect the Product from the Customer on the Collection Date (the “**Collection Window**”).
- 5.24. The Supplier shall be responsible for its own costs in relation to re-arranging a collection of a Product from the Customer if despite the Supplier’s best efforts, the Supplier fails to collect the Product from the Customer on the Collection Date during the Collection Window. The Supplier shall not be liable for any costs incurred by the Customer in relation to re-arranging the collection of the Product.
- 5.25. The Supplier may charge the Customer, at the Supplier’s sole discretion, for its own costs in relation to re-arranging the collection of a Product if the Customer cancels a collection within 2 working days of the Collection Date, or if the Customer is not present at the collection address during the Collection Window on the Collection Date.

Damage to, and Theft or Loss of, Leased Products, Write Offs and Repairs

- 5.26. All leased Products are covered by the Supplier’s Premium Repair and Replacement Service outlined in clause 6 for the duration of the Order and free of charge for the Customer.
- 5.27. The Customer acknowledges and agrees that it is the responsibility of the Customer to inform the Supplier immediately of any damage to Products which are leased to it. If the Customer discovers any damage to a Product, it will cease to use such Product immediately and until the Product has been repaired, replaced or recovered by the Supplier, or until otherwise advised in writing by the Supplier.
- 5.28. Where a leased Product has been damaged by the Customer beyond economical repair (in the Supplier’s opinion) or lost or stolen whilst in the Customer’s custody or in the custody of one of its affiliates, the relevant Order shall be treated as cancelled in respect of the relevant leased Product only. The Customer shall cover the Supplier’s cost relating to such leased Product (the “**Write Off Cost**”). The Write Off Cost will be calculated as the sum of the Option To Purchase Fee for the leased Product and the lesser of (i) the outstanding Price in relation to the leased Product, and (ii) the Termination Fee as set out in clause 2.7.
- 5.29. If a leased Product is damaged by the Customer, the Supplier shall reasonably endeavour to repair such Product and shall be entitled to charge its costs of doing so to the Customer. Where possible, the Supplier will provide an estimate of the cost of repair to the Customer prior to carrying out any such repair, and the Customer shall confirm that it accepts the cost of such repair within 10 working days. The Customer shall pay such repair costs to the Supplier within 30 days of the Supplier invoicing the customer for such repair unless otherwise agreed in writing.
- 5.30. If the Supplier is unable to obtain confirmation from the Customer that it accepts the cost of repair within 10 days of the Supplier requesting such acceptance from the Customer, or if the Supplier is unable to obtain an estimate of the cost of repair prior to incurring such a cost, the Supplier may carry out the repair or choose to write-off the Product in accordance with 5.28. If the Supplier chooses to proceed with the repair, and the cost of repair exceeds the Write Off Cost, the Customer’s cost shall be capped to the Write Off Cost.

Redeployment of leased Products to a new address

- 5.31. The Supplier will recover and redeliver (“**Redeploy**”) leased Products between two addresses specified by the Customer for a fee, and subject to clause 5.

- 5.32. The Supplier will only Redeploy a leased Product to be collected in a Supplier Core Geographies and to be delivered within that same Supplier Core Geography. The Supplier will not Redeploy leased Products between Supplier Core Geographies, or outside of Supplier Core Geographies.
- 5.33. The Supplier will not charge for the storage of leased Products.
- 5.34. The Supplier shall be responsible for theft, loss or damage to leased Products when those are under the Supplier's custody.
- 5.35. Lease payments will continue to apply to leased Products stored by the Supplier on behalf of the Customer as per the Order.
- 5.36. The Supplier will endeavour to assess the functioning and condition of recovered leased Products prior to redelivery and may refuse to redeliver a recovered leased Product if it deems, in its sole opinion, that the leased Product recovered is unsafe or unsuitable for use.
- 5.37. The Supplier may provide the Customer with an equivalent Product at the redelivery address in lieu of the recovered Product at the collection address ("**Equivalent Product**"). The Equivalent Product will be of the same make and model as the Product, unless otherwise agreed in writing with the Customer, and in new or like-new condition. Any such replacement for an Equivalent Product will not affect any Conditions related to the Order for the original Product, including but not limited to the Price, Charges lease duration and lease expiry date.

6. Premium Repair and Replacement Service

- 6.1. This clause 6 shall apply to the lease of the Products by the Supplier to the Customer. It shall not apply to the sale of the Products by the Supplier to the Customer unless otherwise agreed in writing by the parties and subject to payment by the Customer to the Supplier of any additional amount which the Supplier may specify.
- 6.2. The Supplier shall provide the Premium Repair and Replacement Service, which shall involve the following:
 - 6.2.1. Customer may make a written report to the Supplier of any fault with the Products;
 - 6.2.2. Within 3 working days of its receipt of such report and provided that the Customer is available during standard business hours in the relevant geography, the Supplier will carry out a remote diagnostic of the fault, either by means of a phone call or where necessary by means of a video call;
 - 6.2.3. the Supplier shall determine the nature and cause of the fault and inform the Customer of its assessment;
 - 6.2.4. unless the fault is the result of Excluded Cause, the Supplier shall at its election either repair the Products at the Supplier's cost within 10 working days of receipt of the reported fault, or replace such Products within a reasonable period of time;
 - 6.2.5. clause 6.2.4 shall not apply where the Supplier determines (at its sole discretion) that the reason for the fault is failure by any user of the Product to act in accordance with the manufacturer's instructions or where the fault is due to accidental or deliberate damage by any person (an "**Excluded Cause**"); and
 - 6.2.6. where the Products are held at a different country or territory to the delivery address specified by the Customer in the Order, the Supplier reserves the right to charge the Customer for any additional costs associated with:

- (a) the inspection of the Products at the location address;
- (b) the collection of Products from the location address; and
- (c) the delivery of replacement Products or repaired Products to the location address.

7. Handling of Data Capable Devices

- 7.1. Within Supplier Core Geographies, the Supplier will recover any Data Capable Products on behalf of the Customer, whether these are leased from the Supplier or owned by the Customer and deliver said Products to an address provided by the Customer within the same Supplier Core Geography for a fee.
- 7.2. The Supplier will endeavour to recover devices from locations which are not in Supplier Core Geographies at the Customer's expense.
- 7.3. The Customer will ensure that any Data Capable Products are devoid of any personal or confidential information or data prior to requesting any recovery of such Data Capable Product from the Supplier.
- 7.4. In the event that the Customer is unable to remove personal or confidential data from a Data Capable Product, it must notify the Supplier prior to any recovery of a Data Capable Product by the Supplier. The Customer is wholly and solely responsible for ensuring that any data stored on Data Capable Product is encrypted according to latest market standards prior to any recovery of such Data Capable Products by the Supplier.
- 7.5. The Supplier may refuse to handle a Data Capable Product without confirmation which is reasonably satisfactory to the Supplier from the Customer that any data stored within the Data Capable Product is adequately encrypted according to latest market standards.

8. Products and Services in Geographies Other Than Supplier Core Geographies

- 8.1. The Supplier may at its sole discretion offer part, or all, of the Supplier's Products, Service and Software in geographies other than Supplier Core Geographies subject to clauses 8.2 and 8.3.
- 8.2. Unless otherwise agreed in writing any quotes for Price and Charges provided by the Supplier to the Customer are only valid for Orders delivered to a Supplier Core Geography.
- 8.3. Upon request by the Customer, the Supplier may, at its discretion, provide the Customer with a custom quote for Prices, Charges in relation to Products and Services to be delivered outside of Supplier Core Geographies. Where relevant, the Supplier will notify the Customer of any difference in Service level in the relevant geography, on an Order by Order basis.

9. Software and Services

- 9.1. Subject to these Conditions, Supplier grants to Customer a non-exclusive, royalty-free, non-transferable right to permit Authorised Users to use the Software and the Services during the Term solely for Customer's internal business operations.
- 9.2. The Software is made available free-of-charge or subject to the Price stipulated in the Order.
- 9.3. Customer warrants that:

- 9.3.1. no more than the number of Authorised Users specified in the Order shall be permitted to use the Software or Services, unless otherwise agreed with the Supplier;
- 9.3.2. each Authorised User shall keep a secure password for his or her use of the Software and Services;
- 9.3.3. it shall take appropriate measures commensurate with its own information security and diversity and inclusion policies to not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services which:
 - i. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - ii. facilitates illegal activity;
 - iii. depicts sexually explicit images;
 - iv. promotes unlawful violence;
 - v. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability or any other protected status; or
 - vi. is otherwise illegal or causes damage or injury to any person or property, and
 - vii. Supplier reserves the right, without liability or prejudice to its other rights to Customer, to disable Customer's and any Authorised Users' access to any material that breaches the provisions of this clause.
- 9.4. Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and Services and, in the event of any such unauthorised access or use, promptly notify Supplier in writing.
- 9.5. Customer warrants that it shall comply with the provisions of the Data Processing Schedule attached hereto which is part of these Conditions.
- 9.6. Supplier warrants that:
 - 9.6.1. the Software will be provided and the Services will be performed with reasonable skill and care, however Customer agrees that such Services are for general information purposes only and must not be relied upon as medical advice or used as the sole determining factor in assessing the appropriateness of a workstation or the adequacy of health, safety and environmental measures; and
 - 9.6.2. it shall comply with the provisions of the Data Processing Schedule attached hereto which is part of these Conditions.
- 9.7. Supplier:
 - 9.7.1. does not warrant that Customer's use of the Services or Software will be uninterrupted or error-free; or that the Services and/or the information obtained by Customer through the Services will meet Customer's requirements; and
 - 9.7.2. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Customer acknowledges that the Services may be

subject to limitations, delays and other problems inherent in the use of such communications facilities.

10. Intellectual Property Rights

- 10.1. The Customer shall leave in position and not cover, deface or erase any notices or other marks (including, without limitation, serial numbers and notices that a trade mark, design, patent or copyright relating to the Products is owned by the Supplier or a third party) which the Supplier may place on or affix to the Products.
- 10.2. Except where the Customer receives the Supplier's written consent, the Customer shall not use any trade mark of the Supplier on its note paper or in any other way other than in relation to the Products in respect of which the Supplier has used such trade mark. In particular, but without limitation, the Customer shall not in any of its stationery nor by any sign at its premises or otherwise indicate that it is in any way connected with the Supplier other than (if such be the case) that it is an authorised distributor of the Products.
- 10.3. The Customer acknowledges that all intellectual property rights in the Products, Services and Software do and shall continue to belong to the Supplier or its licensors and the Customer agrees that it will not infringe any of the Supplier's intellectual property rights. In addition, the Customer agrees to notify the Supplier as soon as it becomes aware of any third-party infringement of the Supplier's intellectual property rights.
- 10.4. Customer shall not (except as may be allowed by any applicable law which is incapable of exclusion):
 - 10.4.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software (as applicable) in any form or media or by any means;
 - 10.4.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
 - 10.4.3. access all or any part of the Services in order to build a product or service which competes with the Services;
 - 10.4.4. use the Services to provide services to third parties;
 - 10.4.5. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users; or
 - 10.4.6. attempt to obtain, or assist third parties in obtaining, access to the Services.

11. Product Warranties

- 11.1. Customer acknowledges that Supplier is not the manufacturer of the Products and that the only warranties offered are those of the manufacturer, not Supplier or its affiliates. In purchasing or leasing the Products, the Customer confirms that the Customer relies on the manufacturer's specifications only and not on any statements or images that may be provided by Supplier or its affiliates.
- 11.2. Subject to clause 11.1, the Supplier warrants to the Customer that all Products delivered to the Customer will correspond in all material respects with the specification under which they were sold.
- 11.3. The Supplier shall not be liable for a breach of any of the warranties in this clause 11 unless:

- 11.3.1. the Customer gives written notice of the defect to the Supplier, and, if the defect is as a result of damage in transit to the carrier, within 2 working days of the time when the Customer discovers or ought to have discovered the defect; and
- 11.3.2. the Supplier is given a reasonable opportunity after receiving the notice of examining such Products.
- 11.4. The Supplier shall not be liable for a breach of any of the warranties in this clause 11 if:
 - 11.4.1. the Customer makes any further use of such Products (or any one Product) after giving such notice;
 - 11.4.2. having identified a defect or where the Customer reasonably suspects the existence of a defect in relation to any Products (or any one Product), the Customer makes any further use of such Product(s) prior to expiry of the period for giving notice of such defect in accordance with clause 11.3; or
 - 11.4.3. the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, assembly, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; or
 - 11.4.4. the Customer alters or repairs such Products without the written consent of the Supplier.
- 11.5. All samples, illustrations, colours, drawings and diagrams in the Supplier's catalogues, trade literature and other published matter are of a generally informative nature and approximate only and are subject to change without notice and none of these shall form part of any contract or give rise to any independent or collateral liability of whatsoever nature on the part of the Supplier.

12. Limitation of Liability

- 12.1. This clause 12 sets out the entire financial liability of Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
 - 12.1.1. arising under or in connection with these Conditions and each Order;
 - 12.1.2. in respect of any use made by Customer and the Authorised Users of the Products, the Software or Services or any part of them; and
 - 12.1.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
- 12.2. Except as expressly and specifically provided in these Conditions:
 - 12.2.1. Customer assumes sole responsibility for results obtained from the use of the Software and Services by Customer and the Authorised Users, and for conclusions drawn from such use and actions taken or not taken in consequence of such results. Supplier shall have no liability for any damage caused by errors or omissions in any data, information or instructions provided to Supplier by Customer or any Authorised User in connection with the Services, or any actions taken by Supplier at Customer's direction; and
 - 12.2.2. except as expressly stated in this agreement all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement.

12.3. Nothing in this agreement excludes either party's liability:

- (a) for death or personal injury caused by its negligence;
- (b) for fraud or fraudulent misrepresentation; or
- (c) for any other matter which cannot by law be limited or executed.

12.4. Subject to clauses 12.2, 12.3 and 13,

(a) neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses of the other party however arising under these Conditions; and

(b) Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of each Order shall be limited to the cost of repairing or replacing the faulty Product or reperforming the Service, or where such is not possible, to the total Price of the relevant Product or Software as specified in the Order.

13. Indemnity

13.1. The Customer shall (and shall ensure that any third party to whom any Products may subsequently be supplied) comply with all instructions and recommendations of the Supplier in relation to the installation, assembly, storage, maintenance and use of the Products (the "**Supplier's Instructions**") and, except to the extent any of these are caused by the negligence of the Supplier, the Customer shall keep the Supplier fully and effectively indemnified (on an after tax basis) against all costs, claims, demands, expenses and liabilities of whatsoever nature and wheresoever arising, including, without limitation, claims for consequential loss and loss of profit which may be made against the Supplier or which the Supplier may sustain, pay or incur arising out of or in connection with the Customer's failure to comply with the Supplier's Instructions and/or to ensure that any third party to whom any Products have subsequently been supplied so complies.

14. Customer Default

14.1. In the event of any default by the Customer under these Conditions, the Supplier shall be entitled to take any or all of the following steps at its discretion:

14.1.1. refuse to make delivery of any further consignment of any Products agreed to be supplied, including cancelling any outstanding delivery or stopping any Products in transit;

14.1.2. cancel or suspend any unfulfilled Order (either in whole or part) by notice in writing to the Customer;

14.1.3. sell or otherwise dispose of any Products which are the subject of any order by the Customer and apply the proceeds of sale to the overdue payment.

15. General

15.1. **Confidentiality.** Each party shall keep confidential all Confidential Information of the other party which it receives, creates or otherwise becomes aware of in connection with these Conditions.

- 15.2. **Force Majeure.** Neither party shall have liability to the other party under these Conditions if it is prevented from or delayed in performing its obligations under these Conditions, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (except to the extent such dispute involves the workforce of the affected party or its contractors), failure of a utility service or transport or telecommunications network, act of God, pandemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the other party is notified of such an event and its expected duration.
- 15.3. **Variation.** No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 15.4. **Waiver.** No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.5. **Severance.** If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 15.6. **Whole agreement.** These Conditions constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each of the parties acknowledges and agrees that in entering into this agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement. Notwithstanding the previous provisions of this clause, nothing in this agreement shall limit liability for fraudulent misrepresentation.
- 15.7. **Assignment.** Neither party shall, without the prior written consent of the other party, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 15.8. **No partnership.** Nothing in this agreement is intended to or shall operate to create a legal partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 15.9. **Third Party Rights.** This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 15.10. **Notices.** Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its registered address set out in this agreement, or such other physical address as may have been notified by that party for such purposes. A notice delivered by hand shall be deemed to have been received when delivered. A correctly addressed notice

sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

15.11. Governing law and Jurisdiction

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

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

Data Processing Schedule

1. In this Schedule, the following words and expressions shall have the following meanings:

"Data Protection Laws" means any applicable laws and regulations relating to privacy or the use or processing of data relating to natural persons, including EU Directive 2002/58/EC ("**PECR**"), EU Regulation 2016/679 ("**GDPR**") and any applicable legislation implementing or made pursuant to such directive or regulation, including (in the UK) the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, to the extent in force, and as such are updated, amended or replaced from time to time;

"DP Regulator" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws; and

"Data Subject", "Personal Data", "Processing", "processor", and "controller" shall have the meanings set out in the Data Protection Laws.

2. Each party shall:

- (a) at all times during the term of these Conditions, comply with the Data Protection Laws;
- (b) to the extent applicable under the Data Protection Laws, obtain and maintain all appropriate registrations, required in order to allow that party to perform its obligations under this agreement; and
- (c) maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws and shall make such information available to any DP Regulator on request.

3. Customer confirms to Supplier that in connection with Personal Data provided or made available by or on behalf of Customer, it has provided all relevant information and, where applicable, has obtained the relevant consents from its employees, agents and consultants to allow Supplier to process their Personal Data.

4. Supplier shall comply with the provisions and obligations imposed on them by the Data Protection Laws at all times when processing Personal Data in connection with this agreement, which Processing shall be in respect of the types of Personal Data, categories of Data Subjects, nature and purpose, and duration as follows:

- (a) name, title, position, email address, phone number, postal address, and product preferences;
- (b) until the earliest of:
 - (1) expiry/termination of this agreement; or
 - (2) the date on which the processing is no longer necessary for these Conditions or any Order, unless otherwise agreed between the parties in writing;

- (c) the nature of the processing is in connection with the collection, analysis, storage, duplication, disclosure and deletion of the Personal Data in relation to the Services;
 - (d) the Processing undertaken is necessary for the provision of the Services to Customer;
 - (e) the Data Subjects the subject of the Processing are employees, agents and consultants of Customer.
5. In relation to all Personal Data processed in connection with the Services, Supplier acknowledges that, as between the parties, Customer is the controller of such data, and that Supplier, in providing the Services, is acting as a processor and shall:
- (a) process such Personal Data only in accordance with the written instructions from time to time of Customer (including those set out in these Conditions), unless it is otherwise required by applicable law (in which case, unless such law prohibits such notification on important grounds of public interest, Supplier shall notify Customer of the relevant legal requirement before processing the Personal Data);
 - (b) take reasonable steps to ensure the reliability of all its personnel who have access to such Personal Data, and ensure that any such personnel are committed to binding obligations of confidentiality when processing such Personal Data;
 - (c) implement and maintain technical and organisational measures and procedures to ensure an appropriate level of security for such Personal Data, including protecting such Personal Data against the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access;
 - (d) not transfer, access or process such Personal Data outside the European Economic Area, including to the United Kingdom in the event that it leaves the European Union without an adequacy decision at the end of any transition period, without the prior written consent of Customer (and, if Customer so consents, take such steps as are required by Customer to ensure that the relevant transfer, access or processing complies with the Data Protection Laws which may include the requirement to execute the Standard Contractual Clauses for transfers from Controllers to Processors approved by the Commission pursuant to Decision 2010/87/EU, as amended by Commission Implementing Decision (EU) 2016/2297) (and for the avoidance of doubt, Customer consents to transfers to such sub-processors in accordance with subparagraph (f) below);
 - (e) inform Customer within 24 hours if any such Personal Data is (while within Supplier's or its subcontractors' possession or control) subject to a personal data breach (as defined in Article 4 of GDPR);
 - (f) maintain a list of sub-processors available on request to the Customer and add the names of new and replacement sub-processors to the list prior to them becoming a sub-processor of any Personal Data;
 - (g) not disclose any Personal Data to any Data Subject or to a third party other than at the written request of Customer or as expressly provided for in these Conditions;
 - (h) delete or return the Personal Data and copies thereof to Customer on request or on cessation of the Processing;
 - (i) provide to Customer and any DP Regulator all information and assistance necessary or desirable to demonstrate or ensure compliance with the obligations in this Data Processing Schedule;

- (j) permit Customer or their representatives to access any relevant personnel or records of Supplier on reasonable notice to audit and otherwise verify compliance with this Data Processing Schedule;
- (k) take such steps as are reasonably required to assist Customer in ensuring compliance with their obligations under Articles 30 to 36 (inclusive) of GDPR; and
- (l) provide Customer with its full co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data.