

# Account Application Form

Please complete the form in full

## Customer Details

Company name:			
Address 1:		Tel no:	
Address 2:		Email:	
Address 3:		Website:	
Postcode:			

Trading style:										
Nature of business:										
Part of subsidiary (Y/N):	Parent Company Name:									
Company reg no:										
VAT no:			-					-		
Name/s of proprietors/ partners:										

## Account Information

\*marked fields are mandatory

Invoicing address: (if different to above*)		Account contact*	
		Position*	
		Tel No*	
		Fax No*	
Postcode*		Email*	

Credit Required £\$€Kr		Currency: GBP (£) USD (\$) Euro (€) DKK (Kr)
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Bank name:										
Account no:										
Sort code:			-			-				
Address 1:										
Address 2:										

Unless you opt out all invoices will be sent electronically to the accounts payable email address. Please tick here if you wish to opt out:

## Trade References

1										
2										
3										

Please sign here to confirm agreement of terms and conditions (please see next pages):

Signature:		Print name:	
Date:		Position:	

# Terms & Conditions of supply between

(1) **NUVIAS GROUP LIMITED** a company registered in England and Wales (Company Number 09773963) and whose registered office is at Unit 1, Genesis Business Park, Albert Drive, Woking, GU21 5RW ("Nuvias"); and

(2) **NAME**   
**COMPANY NUMBER**  and whose registered office is at  
**ADDRESS**   
 ("Customer")

each a "party" and together the "parties".

**1. FORM OF THIS CONTRACT**

The following terms and conditions ("Conditions") constitute the controlling terms and conditions of any Contract for the supply of Goods and/or Services to the Customer by Nuvias or an Affiliate (both being the "Supplier"). These Conditions exclude all other terms and conditions, unless such terms and conditions are expressly referred to in a Purchase Order or Order Acknowledgement or other written agreement between the parties. Any such Contract shall supersede all previous discussions negotiations letters and agreements in relation to the supply of such Goods and/or Services.

**2. STATUS OF CUSTOMER.**

The Customer confirms that it is not dealing as a consumer and that it is buying the Goods and/or Services for use in its business or the business of an end-user. **THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THE PROVISIONS OF CONDITIONS 9 AND 11 BELOW.**

**3. STATUS OF THE SUPPLIER.**

Nuvias and its Affiliates may supply the Goods and/or Services to the Customer as Supplier under this Contract. Nuvias shall be responsible for any breach of this Contract by an Affiliate.

**4. DEFINITIONS AND INTERPRETATION.**

**4.1** Certain capitalised terms, if not otherwise defined, shall have the following meanings:

"Business Days" means Monday to Friday excluding public or bank holidays in the country where this Contract is performed.

"Control" shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

"Conditions" means these terms and conditions of supply and sale.

"Contract" means any contract between the Supplier and the Customer formed in accordance with Condition 5.3 below.

"Customer" means the entity entering into these Conditions as stated above.

"Customer Default" has the meaning set out at Condition 8.2

"Data Protection Law" means (i) the GDPR and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 (subject to Royal Assent) to the extent that it relates to processing of personal data and privacy; (iii) all applicable law about the processing of personal data and privacy;

"Data Sharing Agreement" means an agreement entered into between the Parties setting out each Party's obligations where any person data is shared by them for the purposes of this Contract.

"Deliverables" means deliverables set out in a Purchase Order and confirmed in an Order Acknowledgement.

"Documentation" means any operator manual and all other documentation relating to the Software supplied at any time by the Supplier to the Customer in connection with the Software supplied by the Supplier to the Customer.

"DPA 2018" means the Data Protection Act 2018.

"GDPR" means the General Data Protection Regulation (Regulation (EU) 2016/679).

"Goods" means any hardware, equipment, Software and Documentation to be supplied by the Supplier pursuant to this Contract.

"Intellectual Property Rights (IPRs)" means patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications 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.

"Order Acknowledgement" means the acknowledgement in writing by the Supplier of a Purchase Order.

"Purchase Order" means the Customer's order for Goods in writing which shall include any order that is placed online via the Website.

"RMA Procedure" means the Supplier's Returns Materials Authorisation procedure as set out on the Website.

"Services" means such installation, configuration, support and other services listed on the Purchase Order forming part of a Contract.

"Software" means any operating system, application software and other software listed on the [quotation/]Purchase Order forming part of a Contract and other software supplied by the Supplier to the Customer in the performance of its obligations under such Contract.

"Software License Agreement" means the license terms attached as Appendix B to this Contract, if any.

"Schedule" means a schedule to this Contract.

"Supplier" means Nuvias or an Affiliate.

"Supplier Materials" has the meaning set out at Condition 8.1(f).

"Website" means the website operated by the Supplier from time to time, the current URL of which is <https://www.nuvias.com>.

- 4.2 References to Conditions and Appendices are to the Conditions and Appendices of this Contract.
- 4.3 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 4.4 In the event of any conflict between these conditions and any Software License Agreement entered into between the Customer the Supplier and/or the supplier/manufacturer of the Software, the terms of the Software License Agreement shall prevail.

## 5 QUOTATIONS AND ORDERING

- 5.1 As soon as reasonably possible following a request by the Customer for Goods and any associated Services, the Supplier will issue the Customer with a quotation detailing the volume and specification of the Goods and associated Services, together with the associated costs. The Supplier reserves the right to make such alterations to the specifications of the Goods as are necessary to conform to any applicable statutory or legislative requirements, and to make such variations and substitutions as are reasonably necessary, to the extent that they do not materially affect the quality and performance of the Goods. Quotations are open for acceptance by the Customer within the quoted number of days provided the Supplier has not withdrawn it prior to acceptance. If the Customer requires any support.
- 5.2 If the Customer requires any support Services after any applicable warranty period, the Customer must purchase such support Services in connection with the Goods as per each quotation provided.
- 5.3 If the Customer agrees the quotation, it shall issue a Purchase Order to the Supplier for the requisite Goods and Services. The Customer shall ensure that the terms of its Purchase Order are complete and accurate and shall provide the Supplier with any additional information reasonably requested by the Supplier relating to the Goods and/or Services within a sufficient time to enable the Supplier to perform the Contract in accordance with its terms. Any Purchase Order for Goods /Services received by the Supplier from the Customer shall be deemed to be an offer by the Customer to purchase Goods/Services subject to these Conditions. No Contract shall come into existence until the Supplier issues an Order Acknowledgment to the Customer. The Parties agree that the terms of the Purchase Order and the Order Acknowledgement shall form part of the Contract between the Parties.
- 5.4 Provided that the Supplier has not purchased goods in order to fulfil the Order, the Customer may cancel a Purchase Order, such cancellation to be made in writing and received no later than seven Business Days prior to the delivery date stated in the Order Acknowledgement. No cancellation shall be effective until acknowledged by the Supplier in writing.

## 6 DELIVERY, RISK AND PASSING OF TITLE

- 6.1 The Supplier shall ensure that:
  - (a) each consignment of Goods is accompanied by a delivery note which shows the date of the Purchase Order, the type and quantity of Goods (including the serial number of the Goods where applicable, special storage instructions (if any) and, if delivery involves several consignments, the outstanding balance of Goods to be delivered; and
  - (b) the delivery note clearly states any requirement for the Customer to return any packaging material to the Supplier. The Customer shall make any such return of packaging materials at such times as the Supplier shall reasonably request. Returns of packaging shall be at the Supplier's expense.

- 6.2** Delivery of physical Goods shall be made to the delivery location specified in the Purchase Order during the Customer's usual business hours. Goods in software are delivered electronically to the email address supplied by the Customer and stated on the Order. Delivery shall be complete on the completion of unloading at the agreed delivery location, when collected by the Customer, or when delivered electronically (i.e. via email).
- 6.3** Any delivery period quoted is the Supplier's reasonable estimate only (the time of delivery not being of the essence) and commences from the date of the Order Acknowledgement. Subject to Condition 11.3 the Supplier shall not be liable for any direct, indirect or consequential losses (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages or expenses caused directly or indirectly by any delay in the delivery of the Goods/Services.
- 6.4** The Supplier reserves the right to deliver the Goods in more than one consignment and to invoice each consignment separately. Each consignment shall be deemed to be a separate Contract. Any breach in relation to any single consignment shall not entitle the Customer to terminate any other Contract or consignment.
- 6.5** The Customer shall be responsible for the cost of delivering physical Goods, which shall be arranged by the Supplier through a carrier. The costs of carriage will be invoiced to Customer by the Supplier.
- 6.6** Subject to Condition 6.3, any liability of the Supplier for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or, at the option of the Supplier, crediting the value of the Goods (as detailed on the relevant invoice) to the Customer's account.
- 6.7** Risk in any Goods passes to the Customer when such Goods are delivered.
- 6.8** If the Customer will not accept delivery of any of the Goods for any reason except a Force Majeure Event or breach by the Supplier of its obligations under this Contract, or the Supplier is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents or authorisations, risk in the Goods will pass to the Customer from the moment of attempted delivery and the Goods shall be deemed to have been delivered. The Supplier may store the Goods until actual delivery takes place whereupon the Customer will be liable for all related costs and expenses and the exclusions of liability set out in Condition 6.3 shall apply. If 10 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken/accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods.
- 6.9** Title in the Goods shall not pass to the Customer until the Supplier has received in full (in cash or cleared funds including, without limitation, as a result of a valid credit card transaction) all sums due to it in respect both of the Goods and the Services, and all other sums which are or which become due to the Supplier from the Customer on any account.
- 6.10** Until title in the Goods has passed to the Customer the Customer must (a) store the Goods (at no cost to the Supplier) separately from all other goods of the Customer or any third party in such a way as they remain readily identifiable as the Supplier's property, (b) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods and (c) maintain the Goods in satisfactory condition insured on the Supplier's behalf for their full price against all risks to the reasonable satisfaction of the Supplier. On request the Customer shall produce the policy of insurance to the Supplier. The Supplier shall be entitled to recover payment for the Goods notwithstanding that title in the Goods has not passed from the Supplier.
- 6.11** The Customer's right to possession of the Goods pursuant to Condition 6.10 shall terminate immediately if (a) the Customer has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer, or (b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the Contract or any other contract between the Supplier and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade, (c) the Customer encumbers or in any way charges any of the Goods; or (d) there occurs any events similar to any of the foregoing under the laws of any jurisdiction, irrespective of whether such occurrences are voluntary or involuntary, or whether they are by operation of law or otherwise.
- 6.12** The Customer grants the Supplier, its agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them or, where the Customer's right to possession has terminated, to recover them. The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so, all monies owing by the Customer to the Supplier shall, without prejudice to any other right or remedy available to the Supplier, forthwith become due and payable.

## 7 LICENSES, PERMITS AND EXPORT CONTROL

- 7.1 The Goods shall meet the standards and certifications as set out in the dispatch note for the Goods and associated paperwork for Goods shipped. Any additional certifications shall be the Customer's sole responsibility.
- 7.2 Customer with all reasonable assistance to allow the Customer to comply with the export control laws and regulations of the United States Government.
- 7.3 Customer hereby acknowledge that the Goods and Services shall not be used for life support systems; applications intended to support or sustain life, or where the failure of the Goods and/or Services would create a situation where personal injury or death is likely to occur. Customer will not knowingly sell the Goods and/or Services for development of these devices, systems or applications, unless it requests and obtains Supplier's prior written consent. Supplier may inform Customer that certain customers have sought and been denied permission to purchase the Goods and/or Services for the uses described above. Upon being so informed, Customer will take reasonable actions to prevent sales of the Goods and/or Services to any of the identified customers.

## 8 CUSTOMER OBLIGATIONS

- 8.1 The Customer shall:
- (a) ensure that the terms of the Purchase Order and any information it provides in a specification for the Goods and associated Services are complete and accurate;
  - (b) co-operate with the Supplier in all matters relating to the subject matter of this Contract;
  - (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
  - (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Goods and any Services, and ensure that such information is complete and accurate in all material respects;
  - (e) obtain and maintain all necessary licenses, permissions and consents which may be required for the Goods before the date on which the Goods are to be used;
  - (f) keep all materials, equipment, documents and other property of the Supplier ("Supplier Materials") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
  - (g) comply with any additional obligations as set out in a relevant specification.
- 8.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (a "Customer Default"):
- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Contract until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations due to a Customer Default; and
  - (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 8.3 If the Customer provides its own hardware for a Software solution, the Customer's hardware must meet the recommended hardware specification provided by the Supplier in the relevant quotation. The Supplier shall have the ability to inspect the Customer's hardware to ensure its compliance with the agreed specification following the commencement of work associated with each Purchase Order. In the event the Customer hardware or other equipment is shown not to meet the agreed specification, the Customer shall, as soon as reasonably practicable, rectify such failure. The Supplier shall not be liable in respect of its obligations under this Contract in respect of supply of the Goods including the Software until Customer's hardware conforms with the agreed specification.

## 9 LIMITED WARRANTY AND DISCLAIMER OF WARRANTY

- 9.1 Notwithstanding any part or reference number used to describe any Goods sourced from a number of original equipment manufacturers, or description that such Goods are supplied by a particular original equipment manufacturer, such descriptions shall not constitute any representation by the Supplier.
- 9.2 The Supplier warrants that the Goods supplied, save in respect of Software, will conform in all material respects to the functional description as in each quotation. The Supplier does not warrant that use of the Software will be uninterrupted or error free. The limited warranties in respect of Software granted under this Condition 9 are supplemental to any warranties contained in the Software License Agreement or otherwise.
- 9.3 Where Goods are sold subject to the express warranty terms specified by the original manufacturer or supplier, the Supplier shall transfer to the Customer such warranty relating to the Goods as it may receive from the manufacturer or supplier of the Goods.
- 9.4 In respect of hardware, the Supplier shall not be liable for any defective Goods unless (a) the Customer reports the defect (whether by email, telephone or via the customer portal) within seven (7) days of the date of delivery of the

- Goods and (b) the Customer returns the faulty Goods to the Supplier in accordance with the RMA Procedure.
- 9.5** In respect of Software, the Supplier will, as soon as possible following notification by the Customer, provide replacements, bug fixes, patches or workarounds for non-conformances reported to the Supplier within ninety (90) days of electronic delivery by access to download or other appropriate delivery method.
- 9.6** The Supplier shall not be liable for any defective Goods if (a) the Customer makes any further use of such Goods after giving notice (whether by email, telephone or via the customer portal) (b) the defect arises because the Customer failed to follow the Supplier's instructions (whether oral or in writing) as to the storage, installation, configuration, use or maintenance of the Goods or (if there are none) good trade practice, (c) the defect arises due to abuse, acts of God or improper use, or (d) the Customer alters, repairs or maintains such Goods without the written consent of the Supplier. (e) the Customer is in breach of clause 7.3 above
- 9.7** Subject to Conditions 9.4, 9.5 and 9.6, if any of the Goods are considered, in the reasonable opinion of the Supplier, to be defective, (a) the Supplier shall at its option repair or replace such Goods (or the defective part), provided that, if a replacement or repair is in the Supplier's opinion not practicable, the Supplier will credit the value of the defective Goods (as detailed on the relevant invoice) to the Customer's account and (b) the Supplier shall be responsible for any transport charges for returning the defective Goods to the Supplier.
- 9.8** Refunds will be given at the discretion of the Supplier.
- 9.9** The Supplier makes no representation or warranty, save in respect of Software, that the Goods do not infringe any Intellectual Property Rights, including, but not limited to, trade mark and patent rights anywhere in the world.
- 9.10** The Supplier warrants that all Services performed by it, if any, will be performed with utmost skill and care and in accordance with the standards expected from a market leader providing the same or similar services. For any breach of this warranty or the failure of the Supplier to perform the Service, the Supplier shall promptly perform or re-perform the Services.
- 10 PRICE AND PAYMENT**
- 10.1** The price of the Goods shall be the price set out in any valid quotation, or where no price has been quoted or a quoted price is no longer valid, the price listed in the Supplier's published price list and/or posted on the Website and current at the date of the Supplier's Order Acknowledgement. If the Supplier identifies any error in any price quoted or posted and the Customer submits a Purchase Order containing that price, the Supplier will inform the Customer of the error. For the avoidance of doubt, the Supplier is not bound to accept any Purchase Order or other offer from the Customer.
- 10.2** The Supplier reserves the right, by giving written notice to the Customer at any time before delivery, to increase the price of the Goods to reflect any changes in specifications for the Goods which are requested by the Customer or are necessary as a result of any delay caused by (a) the Customer's instructions or (b) the Customer's failure to provide adequate information or instructions to the Supplier.
- 10.3** All prices are exclusive of any applicable Value Added Tax (VAT) or any other sales taxes, for which (if applicable) the Customer shall be additionally liable.
- 10.4** An invoice will be issued to the Customer on delivery of the Goods. Payment of the price of the Goods is due in cash or cleared funds within thirty (30) days from the invoice date, but without any other deduction. Time for payment shall be of the essence. If the Customer has elected to pay for the Goods by credit card or debit card, the Supplier reserves the right to add to the amount due and payable by the Customer an administrative fee of three percent (3%) of the invoice value of the Goods. When the Customer purchases Goods by credit or debit card, the Customer deals with the Supplier credit control team. The Supplier does not hold any of the Customer's credit or debit card details, and, subject to Condition 11.3, does not accept any liability for fraudulent or any other improper or unauthorized use of the Customer's credit or debit card details. The Supplier reserves the right not to deliver Goods unless the Supplier has received in full (in cash or cleared funds) all sums which are due to the Supplier from the Customer on any account. If the Supplier delays delivery in such circumstances the Supplier will hold the Goods (at the Supplier's risk) for the Customer, at the Customer's expense, for a period of up to thirty (30) days, to enable the Customer to pay to the Supplier any such sums outstanding, failing which payment by the Customer the Supplier shall be released from any further obligation towards the Customer in relation to such Goods.
- 10.5** If the Customer fails to pay the invoice value of Goods by the due date it shall pay interest on the amount unpaid from the date on which payment was due to that on which it is made (whether before or after judgment) at the rate of eight percent (8%) per annum over the Bank of England base rate from time to time, accruing on a daily basis. The Supplier reserves the right to recover from the Customer any collection or legal costs incurred in connection with the overdue amount.
- 10.6**
- 11 LIABILITY**
- 11.1** The following Conditions 11.2, 11.3 and 11.4 set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of (a) any breach of these Conditions, (b) any use made or resale by the Customer of any of the Goods and (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 11.2** Subject to Condition 9, all warranties, conditions and other terms implied by statute or common law are, to the fullest

extent permitted by law, excluded from the Contract.

- 11.3** Nothing in these Conditions excludes or limits the liability of the parties (a) for death or personal injury caused by the one party's negligence, (b) for any matter in respect of which it would be illegal for the parties to exclude or attempt to exclude their liabilities or (c) for fraud or fraudulent misrepresentation.
- 11.4** Subject to Conditions 9, 10, 11.2 and 11.3, (a) the Supplier's total 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 the Contract shall be limited to and in no circumstances shall exceed the price paid by the Customer for the Goods and (b) the Supplier shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## **12 INTELLECTUAL PROPERTY RIGHTS**

- 12.1** This Condition 12 states the Supplier's entire liability to the Customer arising from the infringement of a third party's Intellectual Property Rights and is subject to the Customer accepting the terms of any Software License Agreement.
- 12.2** Where an injunction is or could be granted against the Supplier's use of any Software by reason of infringement of any third party Intellectual Property Rights, the Supplier may at its option and expense either:
  - (a) procure for the Customer the right to continue using such Goods or any part thereof; or
  - (b) replace or modify the same so that there is no infringement; or
  - (c) if neither of options (a) and (b) above is possible accept the return of such Goods; and
  - (d) grant the Customer a credit equal to the value of such Goods taking into account depreciation.
- 12.3** Copyright and/or any other Intellectual Property Right in any Software and/or Documentation supplied by the Supplier shall remain with the Supplier or (as the case may be) such third party who has permitted the Supplier to supply such items hereunder. In no circumstance shall copyright in such items pass or be deemed to pass to the Customer.
- 12.4** The Customer shall accept and when required sign a Software License Agreement in the form required by the Supplier or the supplier of the Software to the Supplier.
- 12.5** No part of any Software may be copied or reproduced or utilised in any form except in accordance with the Software Licence Agreement.
- 12.6** All information and know-how supplied by the Supplier under or in connection with the Goods and this Contract is supplied on a confidential basis and the Customer shall maintain the confidentiality of the same and in particular will not without the Supplier's prior written consent:
  - (a) disclose any details of any Software or any proprietary equipment or its method of operation to any third party;
  - (b) allow any use of the Software and/or the Documentation or any part thereof by any third party;
  - (c) give or lend to any third party any copy of any program or any other Software in whatever form or any copy of or any part of any operating manual or Documentation supplied by or on behalf of the Supplier;
  - (d) attempt or cause the Software or any part of it to be decompiled or re-engineered without the Supplier's written consent.
- 12.7** The Customer will further take all reasonable steps to ensure that:
  - (a) no person (whether authorised or otherwise) may take or remove from the Customer's possession any copy of any Software or of the documentation supplied by or on behalf of the Supplier.
  - (b) those persons who with the Customer's consent have access to any Goods are aware of the provisions of this Condition 12.

## **13 TERMINATION**

- 13.1** Without affecting any other right or remedy available to it, the Supplier or the Customer may terminate this Contract by giving the other not less than three (3) months' written notice.
- 13.2** Without affecting any other right or remedy available to it, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
  - (a) one party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach after receipt of written notice to do so;
  - (b) one party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (c) one party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
  - (d) one party's financial position deteriorates to such an extent that in the other party's opinion the above-mentioned party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
  - (e) the Customer fails to pay any amount due under the Contract on the due date for payment; or
  - (f) there is a change of control of one party.

- 13.3** Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in Condition 13.2(b) to Condition 13.2(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.
- 13.4** On termination of the Contract:  
 (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods and Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;  
 (b) the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 13.5** Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 13.6** Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

## **14 DATA PROTECTION**

- 14.1** The Parties acknowledge and agree that any processing of personal data that either undertakes pursuant to this Contract shall be compliant with Data Protection Law and, as applicable, with any Data Sharing Agreement.

## **15 CONFIDENTIALITY**

- 15.1** Each Party undertakes that it shall not at any time during this Contract, and for a period of three years after termination of this Contract, disclose to any person any confidential information concerning the business, affairs, clients or suppliers of the other Party or of any member of the group of companies to which the other Party belongs except as permitted by Condition 15.2.
- 15.2** Each Party may disclose the other Party's confidential information:  
 (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Contract. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this Clause 15; and  
 (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, but only to the extent and for the purpose of such required disclosure after providing the Party making the disclosure (the "disclosing party") with advance written notice, if reasonably practicable.
- 15.3** No Party shall use any other Party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract. The obligations of the Party to whom confidential information is disclosed (the "receiving party") shall not apply to any information of the disclosing party that (i) is or becomes part of the public domain through no wrongful act of the receiving party; (ii) was in the receiving party's possession free of any obligation of confidentiality at the time of the disclosing party's disclosure of such information to the receiving party; (iii) is developed by the receiving party completely independently from the confidential information of the disclosing party.
- 15.4** The Parties acknowledge and agree that all information in respect of this Contract and the Goods, excluding Software provided by the Supplier and which is subject to the Software Licence Agreement, in whatever form recorded, which either Party may supply whether or not marked "proprietary" or "confidential", shall remain the property of the disclosing party and may be used or disclosed only with the disclosing party's specific authorisation.

## **16 GENERAL**

- 16.1** **Jurisdiction.** This Contract shall be governed by and construed in accordance with the laws of England and Wales and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract, save that the Supplier shall not be prevented from taking proceedings relating to a dispute in any other courts with jurisdiction, and, to the extent allowed by law, may take concurrent proceedings in any number of jurisdictions.
- 16.2** **Force Majeure.** Either Party shall be excused from any delays in performance of its obligations under this Contract if such a delay results from any cause or circumstance beyond its reasonable control. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.
- 16.3** **Anti-bribery compliance.** The Parties shall:  
 (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");  
 (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the



Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;  
 (c) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and Condition 16.3(b) above, and will enforce them where appropriate;

(d) promptly report to the other any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this agreement;

(e) immediately notify the other in writing if a foreign public official becomes an officer or employee of it or acquires a direct or indirect interest in it, and each Party warrants to the other that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement;

(f) within 1 month of being requested to do so, and annually thereafter, certify to the other in writing signed by an officer, compliance with this paragraph by it and all persons associated with it. Each Party shall provide such supporting evidence of compliance as the other may reasonably request.

For the purpose of this Condition 16.3, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

- 16.4 Notices.** All notices required to be given under this Contract shall be given in writing to the recipient at the relevant address stated in these Conditions (or to such other address as the recipient may from time to time specify in writing). All notices shall be sent by post and shall be deemed to be delivered after posting if the recipient is located in the same jurisdiction as the sender and seven (7) days after posting if the recipient is located in a different jurisdiction from the sender.
- 16.5 Assignment and other dealings.** The parties may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract with prior notification. The parties shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the other party.
- 16.6 Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives). The Supplier reserves the right to formally vary these Conditions by not less than seven days' written notice to the Customer. The Customer is entitled to reject any such variation. Such rejection must be in writing and served within seven days of the original notice. If no rejection is received the Customer shall be conclusively deemed for all purposes to have accepted such variation.
- 16.7 Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.8 Severability.** If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Condition 16.8 shall not affect the validity and enforceability of the rest of this Contract.
- 16.9 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 16.10 Non-solicitation.** The Customer shall not during the term of this Contract, and for a period of one year thereafter, solicit the services of any senior staff of the other Party who have been engaged in the provision of the Goods or the management of this Contract or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of the other Party.
- 16.11 Publicity.** Each Party authorises the other Party to add its name and logo to the relevant section on the other Party's website. Prior to the use by the Supplier of the Customer's name and logo, the Supplier will obtain the Customer's prior written consent to the intended use and content which must be signed by a statutory director of the Customer.
- 16.12 Third parties' rights.** The Parties to this Contract do not intend that any term of this Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 16.13 Entire Agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.