



## TERMS & CONDITIONS

### 1. Interpretation

The following definitions and rules of interpretation apply in this agreement:

#### 1.1 Definitions:

**Applicable Laws:** all applicable laws, statutes, regulations and standards applying to the person or circumstances in question, including standards imposed by or notices issued by any governmental or regulatory authorities and all generally applicable industry standards, including those attributable to self-regulation.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 6.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 14.5.

**Contract:** the contract between the Customer and the Supplier for the supply of Services in accordance with these Conditions.

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

**Customer:** Integrated Service Solutions Limited incorporated and registered in England and Wales with company number 08332191 whose registered office is at Fowler Welch, London Road, Teynham, Sittingbourne, Kent ME9 9PR.

**Customer Materials:** all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in connection with the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, 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.

**Mandatory Policies:** the Customer's business policies and codes as may be in force from time to time.

**Order:** the Customer's order for the Services, as set out in the Customer's purchase order form.

**Services:** the services, including any Deliverables, to be provided by the Supplier as set out in the Order.

**Specification:** the description or specification of the Services to be provided by the Supplier, as agreed in writing between the Customer and the Supplier.

**Supplier:** the person, firm or company from whom the Customer purchases the Services.

#### 1.2 Interpretation:

(a) A person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(d) Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(e) A reference to **writing** or **written** includes faxes and e-mail.

### 2. Basis of Contract

2.2 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

2.4 The Order shall be deemed to be accepted on the earlier of:

(a) the Supplier issuing a written acceptance of the Order; or  
(b) the Supplier doing any act consistent with fulfilling the Order,

at which point the Contract shall come into existence (the "**Commencement Date**").

2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

2.6 These Conditions shall apply to each Order.

### 3. Supply of Services

3.1 The Supplier shall, from the Commencement Date and for the duration of the Contract, unless terminated earlier by either party in accordance with these Conditions, provide the Services to the Customer in accordance with the terms of the Contract.

3.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer and time is of the essence in relation to any of those performance dates.

3.3 In providing the Services, the Supplier shall:

(a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

(b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

(c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;

- (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all necessary licences and consents as may be required to properly provide the Services;
- (h) comply with all Applicable Laws in the provision of the Services, and the Mandatory Policies;
- (i) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
- (j) hold all Customer Materials in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation; and
- (k) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

#### 4. Customer Remedies

- 4.1 If the Supplier fails to perform the Services by or on the applicable dates specified in the Order or notified to the Supplier by the Customer, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute services from a third party;
  - (d) where the Customer has paid in advance for Services that have not been provided by the Supplier, to have such sums refunded by the Supplier; or
  - (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates or carry out its obligations under the Contract.
- 4.2 These Conditions shall extend to any substituted or remedial services provided by the Supplier.
- 4.3 The Customer's rights and remedies under these Conditions and the Contract are in addition to its rights and remedies implied by statute and common law.

#### 5. Customer's Obligations

- 5.1 The Customer shall:
- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and
  - (b) provide such information to the Supplier as the Supplier may reasonably request and the Customer considers reasonably necessary for the purpose of providing the Services.

#### 6. Charges and Payment

- 6.1 The Charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services.

Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

- 6.2 The Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 6.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the invoiced amounts, within 28 days of the date of a correctly rendered invoice, to a bank account nominated in writing by the Supplier.
- 6.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax (VAT) chargeable for the time being. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 6.5 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 2% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.6 In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from 28 days after the date on which the dispute was so resolved until the date of payment.
- 6.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and shall allow the Customer to inspect such records at all reasonable times on request.
- 6.8 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- #### 7. Dispute Resolution
- If any dispute arises in relation to the Charges due by the Customer to the Supplier under the Contract (the "Dispute"), the parties shall in the first instance follow the following procedure:
- (a) either party shall give to the other written notice of the Dispute, setting out its nature and sufficient particulars (the "Dispute Notice"). On service of the Dispute Notice, one member of senior management of each of the Customer and the Supplier shall attempt in good faith to resolve the Dispute;
  - (b) if the Customer and the Supplier are unable to resolve the Dispute within 20 Business Days of service of the Dispute Notice, either of the parties may notify the other that it wishes to refer the Dispute to an independent expert (the "Expert"). The Expert shall be jointly agreed by the parties, or if no agreement is reached within 15 Business Days after one party notifies the other that it wishes to make a referral, the Expert shall be nominated by

President of the Institute of Chartered Accountants in England and Wales (the “**President**”) for the time being. The parties shall use their reasonable endeavours to agree the terms of the appointment with the Expert, and if terms cannot be agreed within 10 Business Days of nomination, either party may request that the President determines the terms of appointment of the Expert on behalf of the parties. The parties shall at all times co-operate with the Expert, who shall act as an expert and not as an arbitrator. The Expert’s written decision on the Dispute shall be final and binding on the parties in the absence of manifest error or fraud. Each party shall bear its own costs in relation to the reference to the Expert, unless the Expert directs otherwise.

## **8. Intellectual Property Rights**

- 8.1 In respect of any goods that are transferred to the Customer under the Contract, including the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to transfer all such items to the Customer.
- 8.2 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 8.3 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products or results of the Services, including the Deliverables.
- 8.4 The Supplier shall obtain waivers of all moral rights in the products or results, including the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 8.5 The Supplier shall, promptly at the Customer’s request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer.
- 8.6 All Customer Materials are the exclusive property of the Customer.

## **9. Indemnity**

- 9.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:
- (a) any claim brought against the Customer for actual or alleged infringement of a third party’s intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
- (b) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 9.2 This clause 9 shall survive termination of the Contract.

## **10. Limitation of Liability**

- 10.1 Nothing in these Conditions shall limit or exclude the Customer’s liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for the Customer to exclude or restrict liability.
- 10.2 Subject to clause 10.1:
- (a) the Customer shall under no circumstances whatsoever be liable to the Supplier, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these Conditions; and
- (b) the Customer’s total liability to the Supplier in respect of all other losses arising under or in connection with these Conditions, whether in contract, tort, (including negligence), breach of statutory duty or otherwise shall in no circumstances exceed the Charges paid by the Customer to the Supplier in the previous 12 month period prior to the Supplier becoming aware of the potential liability.

## **11. Insurance**

During the Term of the Contract and for a period of 2 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Customer’s request, produce both the insurance certificate giving details of cover and the receipt for the current year’s premium in respect of each insurance.

## **12. Termination**

- 12.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract in whole or in part:
- (a) with immediate effect by giving written notice to the Supplier if:
- (i) there is a change of Control of the Supplier; or
- (ii) the Supplier’s financial position deteriorates to such an extent that in the Customer’s opinion the Supplier’s capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (iii) the Supplier commits a breach of clause 3.3(h), for convenience by giving the Supplier one month’s written notice.
- (b) for convenience by giving the Supplier one month’s written notice.
- 12.2 Without limiting or affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (b) the other 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; or
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

- 12.3 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 12.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
- 13. Consequences of Termination**
- 13.1 On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all products or results of the Services, including the Deliverables (whether or not then complete), and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 13.2 Termination of the Contract shall not affect any of the rights, remedies, obligations or 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.
- 14. General**
- 14.1 Force Majeure**
- Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 6 weeks, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.
- 14.2 Assignment and other dealings**
- (a) The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.
- 14.3 Confidentiality**
- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.3(b).
- (b) Each party may disclose the other party's confidential information:
- (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.3; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 14.4 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.
- 14.5 Variation**
- Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 14.6 Waiver**
- A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy provided under the Contract or by law shall not:
- (a) waive that or any other right or remedy; or
  - (b) prevent or restrict the further exercise of that or any other right or remedy.
- 14.7 Severance**
- If any provision or part-provision of the 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 clause shall not affect the validity and enforceability of the rest of the Contract.
- 14.8 Notices**
- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.8(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 14.9 Third Party Rights**
- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) No one other than a party to the Contract shall have any right to enforce any of its terms.
- (c) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 14.10 Governing Law**
- The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- 14.11 Jurisdiction**
- Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.