



TRANSACT

TRANSFORM

RUN

RECYCLE

General Terms and Conditions of Purchase of Software Only

Short Form

Author: Naeema Siddiqui

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1. BASIS OF CONTRACT

1.1. These terms and conditions below ("**Conditions**") apply to the agreement ("**Contract**") between Bell-TSI Limited ("**Customer**") and the Supplier for the sale and licence of any standard software in the form generally offered to customers and being re-sold by the Supplier pursuant to an Order and that has not been customised to meet specific Customer or the end user requirements ("**Software**"), set out in the Customer's order ("**Order**"). Once the Order is issued by the Customer the Contract is formed between the Customer and the Supplier. These Conditions shall apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate within its quotation, or which are implied by trade, custom, practice or course of dealing, other than an end user licence agreement ("**EULA**") which is entered into between the Supplier and the Customer's customer ("**End User**"). In the event of conflict, the terms of such EULA shall take precedence.

2. WARRANTIES

2.1. The Supplier warrants, represents and undertakes to the Customer that:

2.1.1. the supply of the Software and its use shall not infringe the intellectual property rights of any third party;

2.1.2. it will comply with all relevant anti-bribery and anti-slavery legislation;

2.1.3. it has taken reasonable precautions to ensure that the Software does not introduce or contain any application, including any computer virus, spyware, disabling program (including worms and Trojan horses) ("**Virus**") on into the Customer or End User (as defined within Condition 4) systems or networks;

2.1.4. neither the Supplier or the Supplier personnel will introduce or embed in the Software anything which is intended by any person to, is likely to, impair the operation of the Software or any other computer systems or programs in the possession of Customer or End Users.

2.1.5. the Software will:

2.1.5.1. comply with all laws and regulations relating to the Software at the time of delivery;

2.1.5.2. conform to quantity, description, specification and standards (if any) clearly stated or referred to in the Order;

2.1.5.3. be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended);

2.1.5.4. if the purpose for which it is required is indicated in the Order, either expressly or by implication, be fit for that purpose; and

2.1.5.5. maintain currency and that no update, enhancement or new version of the Software provided, shall reduce performance or remove or reduce functionality.

2.2. **Third Party Warranties:** The Supplier shall assign to the Customer or any End Users, or procure for the benefit of such parties, the benefit of any warranties or guarantees, if any, that

the Supplier has received for the Software from the licensor, where relevant.

2.3. **Exclusion of statutory warranties:** Except as expressly stated in the Contract, all warranties implied by statute, common law or otherwise are excluded to the extent permitted by applicable laws.

2.4. For the avoidance of doubt, the Customer shall assign the benefit of the warranties within this Condition 2 to the End Users

3. BREACH OF WARRANTY

3.1. If there is a breach of any of the warranties in Condition 2, then without limiting any of its other rights or remedies, and whether or not it has accepted the Software, the Customer may exercise any one or more of the following remedies at the Supplier's cost and expense: (i) require the Supplier to use reasonable endeavours to correct, or procure the correction of, all faults or defects in the Software so that the Software can be provided in accordance with the Contract; and, if the Supplier is unable to do so within a reasonable time; (ii) reject the Software and terminate the Contract on written notice with immediate effect, in which case the Supplier shall refund to the Client the price paid in relation to the Contract subject to a pro rate reduction for the period of time for which the Software has been used.

4. LICENCE

4.1. In the absence of a EULA, the Supplier shall grant to the Customer a non-exclusive, a perpetual, non-terminable, sub-licensable, fully assignable, royalty-free licence for the End User to use the Software for the term defined in the Order, in object code form, for the normal business purposes (and any act which is reasonably incidental to such use), including:-

4.1.1. installation of and access to the Software on any site in any part of the world and on any compatible equipment and on any compatible environment in which the End Users operate from time to time; and

4.1.2. making copies of or adapting the Software solely to the extent necessary for the End Users own lawful use, including for the purpose of distribution, back up purposes and fixing errors.

4.2. **Restriction on modifications:** Except as permitted by law, the End Users will have no right to copy, adapt, reverse engineer, decompile, disassemble or modify the Software in whole or in part.

4.3. **Licence restrictions:** Where the Order indicates that the purchased licences are restricted by reference to a metric such as the number of copies installed or End Users who may use the Software, the End Users usage will comply with such restriction. If notwithstanding this it is identified at any time that the End User has exceeded the scope of its licences then the Customer may be liable for additional charges and may purchase additional licences in accordance with Condition 4.3, where the restriction within Condition 6.3 shall not apply.

4.4. **Additional Licences:** If at any time the Customer requires additional Licences for the Software it shall notify the Supplier accordingly and the Supplier shall provide a quotation setting out the additional price payable for the requested licences.

4.5. **Reduction in Licence requirements:** If at any time the End User has a reduction in licence requirements (for example, it has fewer End Users requiring use of the Software) the

Customer may, to the extent permitted by the Supplier, reduce the number of licences that it has on not less than 30 (thirty) days' notice to the Supplier, in which case the price shall be recalculated accordingly and the Supplier shall issue a pro rata refund (as a credit against the next invoice) of any part of the price paid in advance in respect of the surrendered licences.

- 4.6. **Use of open source licensed technology:** The Supplier may only supply open source software, which meets the Open Source Initiative's Open Source definition at <https://opensource.org/docs/definition.php> or any libraries or code licensed from time to time under the General Public Licence Open Source Software ("Open Source Software"), with the Customer's prior written consent.
- 4.7. **Third Party Licence:** Where the Supplier requires the end user to enter into a EULA, it shall liaise with the end user directly and the Customer shall not be party to such discussions or the EULA. The Supplier shall notify the Customer that it has entered or will enter the EULA in accordance with Condition 4.7, prior to the Customer issuing an Order.
- 4.8. **Escrow.** Where Customer indicates to the Supplier that an escrow agreement is required, the Supplier shall enter into an escrow agreement for the benefit of the End User.

5. DELIVERY

- 5.1. The Supplier shall supply all items of Software specified in the Order and shall make available all related operating manuals, user instruction manuals, technical literature, specifications and other documentation ("Documentation") relating to the Software.
- 5.2. Software shall be delivered electronically, if available, or by such other means as agreed between the parties in the Contract.
- 5.3. The Supplier shall invoice the Customer for the Bespoke Software upon Acceptance in accordance with Condition 8, all other Software shall be invoiced in accordance with Condition 6.
- 5.4. If the Software is not delivered on the delivery date, then, without limiting any other right or remedy the Customer may have, the Customer may: (a) refuse to take any subsequent attempted delivery of the Software; or, (b) terminate the Contract with immediate effect without any liability to the Customer.
- 5.5. The Supplier agrees on request to provide the Customer with any necessary declarations and documents stating the origins of any Software.
- 5.6. The Supplier shall comply with the Customer policies (including but not limited to the supplier charter) as made known to the Supplier by the Customer from time to time, to the extent not inconsistent with the Contract.
- 5.7. The Supplier shall co-operate with any regulatory authority as required from time to time.
- 5.8. The Customer may terminate all or part of the Contract at any time by giving written notice via email to the Supplier. If the Software is capable of re-sell by the Supplier, prior to the date of termination, then such termination shall be without liability on the part of the Customer. If the Supplier has incurred reasonable costs which cannot be otherwise avoided, the Customer will be given an option to pay such reasonable costs or continue with the Contract.

6. PRICE AND PAYMENT

- 6.1. The price of the Software shall be set out in the Order and payable in accordance with the Contract.
- 6.2. The Supplier may invoice the Customer for the Software in accordance with the payment dates referred to in the Order if the Software has been delivered in accordance with the Contract and the Customer has notified the Supplier promptly by issuing a goods receipt note.
- 6.3. The Supplier shall not be entitled to invoice the Customer later than ninety (90) days following receipt of a goods receipt note

from the Customer and the Customer shall not be obliged to pay the Supplier for such Software after such ninety (90) days has elapsed. For the avoidance of doubt, this Condition shall not apply where any delay has been caused by the Customer's failure to provide the goods receipt note.

7. ACCEPTANCE

- 7.1. For the avoidance of doubt this Condition 7 shall only apply to software that is not standard Software or Open Source Software and has been customised in accordance with the Customer requirements ("**Bespoke Software**").
- 7.2. The Customer shall notify the Supplier of the criteria upon which the acceptance of such Bespoke Software by the Customer shall be tested ("**Acceptance Criteria**"), if applicable.
- 7.3. The Customer shall have a reasonable time from the delivery date to inspect the Bespoke Software in order to evaluate its compliance with the Contract and to measure the Bespoke Software against the Acceptance Criteria ("**Acceptance Test**") and shall inform the Supplier that either (i) the Bespoke Software has passed the Acceptance Test and the Customer accepts the Hardware; or (ii) the Bespoke Software has failed to pass the Acceptance Test.
- 7.4. Where the Bespoke Software fails the Acceptance Tests, the Customer may exercise the following options, without prejudice to any other remedies available to it and at the Suppliers cost and expense (i) require the Supplier to use reasonable endeavours to correct all faults or defects in the Bespoke Software in a timely manner so that the Bespoke Software can pass the Acceptance Tests (ii) reject the Bespoke Software and terminate the Contract on written notice with immediate effect (iii) request refund the price paid for the Bespoke Software (iv) require the Supplier to facilitate the return of any non-compliant Bespoke Software to the originating manufacturer. Where option (i) is exercised, the Acceptance Test shall be repeated within a reasonable time.
- 7.5. If no Acceptance Test is conducted within the period specified in Condition 7.2, then within such reasonable time after delivery date the Acceptance Test shall be deemed to have taken place.

8. CONFIDENTIALITY

- 8.1. The Supplier shall:
- 8.1.1 protect all information, disclosed by the disclosing party, or its employees, officers, advisers, agents or representatives ("**Representatives**"), pursuant to the Contract, including but not limited to, financial, end user information, business or technical or other data and all other confidential information (whether written, oral, visual or in electronic form or in magnetic or other media) ("**Confidential Information**") and, in doing so, must use no less than the equivalent degree of care that such party applies to its own Confidential Information which shall in no case be less than a reasonable standard of care;
- 8.1.2 have internal systems to ensure that Confidential Information is stored and handled in such a way as to prevent unauthorised disclosure;
- 8.1.3 procure that its personnel and any third parties do not; disseminate, copy, employ, exploit, adapt, modify or in any other manner whatsoever utilise the Confidential Information other than strictly for the provision of licencing the Software. For the avoidance of doubt, the Supplier shall be liable for all acts and/or omissions of its personnel and any third parties.
- 8.2. The obligations contained in Conditions 8.1.1 to 8.1.3 shall not apply to any Confidential Information which:-
- (a) is lawfully in the possession of the Supplier prior to receipt from the disclosing party, as reasonably evidenced in writing;
- (b) is or becomes publicly known, other than as a consequence of a breach of the Contract;

(c) can be reasonably evidenced by written records that it has been developed independently by the Supplier without access to, use of, or incorporation of the Confidential Information;

(d) is required to be disclosed by a court of competent jurisdiction or operation of law, provided the Supplier, where reasonably practicable, provides notice to the Customer of such disclosure;

(e) is received from a third party without breach of any other relevant confidentiality obligations;

8.3. For the avoidance of doubt and pursuant to Condition 8.2 (b), information will not be considered to be in the public domain, by it being known to a few of those people to whom it might be of commercial interest.

8.4. The Supplier shall not disclose to any third party the terms upon which it has licenced the Software to the Customer or End Users, without the Customer's prior written consent unless required to do so by law.

9. DATA PROTECTION AND CUSTOMER MATERIALS

- 9.1. For the purpose of this Condition 9, "Controller", "Personal Data" and "Process" shall have the meanings given to them in the Data Protection Act 2018 (as amended) ("DPA").
- 9.2. The Parties each acknowledge and agree that they may need to Process Personal Data (in their respective capacities as Controllers) in order to (as appropriate): (a) administer and provide the Software ; (b) request and receive the Software ; (c) compile, dispatch and manage the payment of invoices relating to the Software ; (d) manage the Contract and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Software ; and (f) comply with their respective regulatory obligations.
- 9.3. Each party shall Process Personal Data for the purposes set out in Condition 9.2 in accordance with their respective privacy policies. The Parties acknowledge that they may be required to share Personal Data with their affiliates, group companies and other relevant parties, within or outside of the country of origin, in order to carry out the activities listed in Clause 9.2, and in doing so each party will ensure that the sharing and use of this Personal Data complies with DPA.
- 9.4. Where the Supplier is Processing end user Personal Data, the Customer will require the Supplier to agree to a Data Protection agreement with the end user directly. A copy of this agreement will be provided to the Supplier.

10. INSURANCE

- 10.1. The Supplier agrees to take out and maintain with a reputable insurance company such insurance of a sufficient value and in respect of the types of insurance that it is reasonable for the Customer to require of a supplier supplying Software and Software similar to those of the Supplier under this Contract to maintain, as well as any other insurance required by law from time to time. The Supplier shall provide the Customer with a copy of such insurance certificates upon reasonable request.

11. INDEMNITIES

- 11.1. The Supplier shall at all times indemnify the Customer, its officers, employees and agents ("Indemnified Persons"), and keep the Indemnified Persons indemnified, from and against any and all damages, losses, costs or expenses incurred by the indemnified Persons in connection with:
- 11.1.1 actions or remedies required, proceedings commenced or threatened by a regulatory authority (including any fines imposed by such regulatory authority) as a result of a default by the Supplier;
- 11.1.2 a breach of Conditions 2.1.1 and 2.1.2 (Warranties), Condition 9 (Data Protection), and any other liability which cannot be limited or excluded by law which occurs in the performance of the Supplier's obligations under the Contract.

12. LIMITATION OF LIABILITY

- 12.1. Neither party excludes or limits its liability to the other:

- 12.1.1. for personal injury or death caused by its negligence;
- 12.1.2. for any matter for which, at law, a party cannot exclude or limit or attempt to exclude or limit its liability;
- 12.1.3. for breach of a third party's intellectual property rights;
- 12.1.4. for breach of Condition 8 (Confidentiality); or
- 12.1.5. for fraud or fraudulent misrepresentation.

- 12.2. Subject to Condition 12.1, neither party shall have any liability to the other party for any indirect, special or consequential loss, loss of profits or expected turnover.

13. ANTI-BRIBERY AND CORRUPTION

- 13.1 The Supplier shall: (i) maintain an effective anti-bribery (including gift and hospitality) compliance programme, designed to ensure compliance including the monitoring of compliance and detection of violations; and (ii) reasonably assist the Customer, to comply with bribery and corruption legislation at the Customer's cost and expense.

14. ANTI-SLAVERY

- 14.1 The Supplier undertakes, warrants and represents that:
- 14.1.1. neither the Supplier nor any of its officers, employees, agents, Sub-Contractors have: (a) committed an offence under the Modern Slavery Act 2015 ("MSA Offence"); or (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 14.1.2. it shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents have breached or potentially breached any of the Supplier's obligations under this Condition 14.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.
- 14.2. Any breach of Condition 14.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle the Customer to terminate the Contract with immediate effect.

15. TERMINATION

- 15.1. Either party may by written notice terminate the Contract if the other party is in material breach of any Condition(s) of the Contract, which is either (i) not capable of remedy; or (ii) being capable of remedy, has not been remedied within thirty (30) days after written notice from the other party requiring it to do so.
- 15.2. For the purposes of this Condition 15, a number of breaches (whether of the same or different obligations and regardless of whether those breaches are remedied) may collectively constitute a material breach to which Condition 15.1 applies whether or not each breach on its own would be considered a material breach.
- 15.3. Either party may terminate the Contract at any time with immediate effect if:-
- 15.3.1. a resolution is passed, or an order is made for the winding up (or equivalent order in the relevant jurisdiction) of the other party, otherwise than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction;
- 15.3.2. the other party becomes subject to an administration order; a liquidator, receiver or administrative receiver or similar is appointed over any of its property or assets;
- 15.3.3. the other party enters into an arrangement or composition with its creditors, ceases or threatens to cease to carry on business, becomes insolvent or ceases to be able to pay its debts as they fall due;
- 15.3.4. a Force Majeure Event (defined in Condition 21.1) continues for a period of forty five (45) days.

- 15.4. If the Contract is terminated: (i) the Contract shall continue in force to the extent necessary to give effect to those of its provisions which expressly or by implication have effect after termination; and (ii) the rights of either party accrued on or prior to termination shall remain unaffected.
- 15.5. The Supplier shall promptly notify the Customer and in any event within five days of becoming aware of a breach of the supplier charter. If such breach is of a material obligation of the supplier charter and creates a material risk for the Customer (acting reasonably) or materially affects the Supplier's performance of the Contract, the Customer may terminate the Contract.
- 15.6. Upon early termination of the Contract in accordance with its terms by either party, where the Customer has paid the Supplier the price for Software that have not been supplied at the date of termination, the Supplier shall, upon demand, either repay such price to the Customer or deliver the Software to the Customer.
- 16. AUDIT AND INSPECTION**
- 16.1. The Supplier shall permit the auditors to conduct audits of the Supplier during the term of the Contract (and for six years after the expiry or termination of the Contract). The right of audit includes a right for the auditor to enter any of the Supplier premises to inspect and take copies of such books and records and to interview members of the Supplier personnel once per annum.
- 16.2. The purpose of any audit carried out under this Condition 16 shall be to: provide the Auditor with assurance as to the Supplier's compliance with the Contract; to enable the Customer to investigate any complaints or queries of or provide information required by a regulatory authority or any Customers of the Customer group relating to the Software or the conduct of the Supplier, the Supplier personnel; and to investigate any suspicion of fraud or wrongful practice on the part of the Supplier, the Supplier personnel.
- 10.3 The Supplier shall cooperate with the auditor and will provide or procure such access and assistance as the Auditor requires in order to enable the Auditor to fully exercise the rights set out in Condition 16.1. Except where the audit is undertaken in respect of suspected fraud or breach or by a regulatory authority which stipulates that no notice should be given, the Customer shall provide at least three (3) Working Days (as defined below) written notice of the audit; shall conduct the audit (or procure it is conducted) within the hours of 9.00 am to 5.30 pm GMT ("**Normal Business Hours**") on a day other than a Saturday, Sunday or a bank holiday in the jurisdiction of the Customer ("**Working Day**").
- 17. ASSIGNMENT AND SUB-CONTRACTING**
- 17.1. The Supplier shall not assign, transfer or sub-contract its rights or obligations under the Contract without the Customer's prior written consent. Any such consent shall not relieve the Supplier of its obligations under the Contract.
- 18. NOTICES**
- 18.1. Where the Contract requires notice to be given by one party to the other such notice shall be in writing and shall be delivered by hand, first class post or special delivery post to the following:
- 18.1.1. in the case of delivery to the Customer, to the CFO at New Hampshire Court, St. Paul's Road, Portsmouth, PO5 4AQ;
- 18.1.2. in the case of delivery to the Supplier to a Director at the Supplier's registered office address.
- 18.2. Notices will be deemed to have been duly served if delivered by hand at the time of delivery; if delivered by first class post or special delivery post 48 hours after being posted, provided that where in the case of delivery by hand such delivery occurs either after 4.00 pm on a Working Day, or on a day other than a Working Day, service will be deemed to occur at 9.00 am on the next Working Day.
- 18.3. In the case of communications relating to the Contract which do not relate to matters where the Contract requires notice to be given, communications may take place by email between the parties using then current e mail addresses usually used between the parties.
- 19. SEVERABILITY**
- 19.1. If any provision(s) under the Contract are deemed or found to be invalid or unenforceable by a court of competent jurisdiction, such provisions shall be deemed omitted, all other provisions shall remain in full force and effect.
- 20. THIRD PARTY RIGHTS**
- 20.1. Save for the Indemnified Persons, a person who is not a party to the Contract may not enforce the Contract under the Contracts (Rights of Third Parties) Act 1999.
- 21. FORCE MAJEURE**
- 21.1 Neither party shall be liable for the failure to perform its obligations under the Contract, if such failure results from any event which is beyond such party's reasonable control, which prevents or delays the performance of its obligations under this Contract ("**Force Majeure Event**").
- 21.2 Each party shall use all reasonable endeavours to limit the effects of any Force Majeure Event.
- 21.3 Each party agrees to give notice forthwith to the other upon becoming aware of a Force Majeure Event, such notice to contain details of the circumstances giving rise to the Force Majeure Event.
- 22 INTELLECTUAL PROPERTY RIGHTS**
- 22.1 Nothing in this Contract shall transfer any intellectual property rights including but is not limited to; patents, designs and trade marks (whether registered or unregistered), copyright, database rights and know how ("**Intellectual Property Rights**") from the Supplier to the Customer or End User.
- 23 VARIATION AND WAIVER**
- 23.1 No variation of this Contract shall be effective unless it is in writing and signed by the parties.
- 23.2 A waiver of any right or remedy under this Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 23.3 A failure or delay by a party to exercise any right or remedy provided under this 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 under this Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 24 ENTIRE AGREEMENT**
- 24.1 The Contract contains all the terms which the Customer and the Supplier have agreed in relation to the supply of the Software and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Software. The Supplier's standard terms and conditions referred to in any correspondence or quotation form shall not apply to the Contract. The Supplier acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by or on behalf of the Customer which is not set out in the Contract and agrees that it shall have no claim in respect of the same. Nothing in the Contract will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.
- 25 NO PARTNERSHIP, JOINT VENTURE, AGENCY OR EMPLOYMENT**
- 25.1 Nothing contained in the Contract, and no action taken by the parties pursuant to the Contract, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. Neither party has, nor may it represent that it has, any authority to act or make any commitments on the other party's behalf.
- 26 PUBLICITY**

The Supplier shall not: (a) make any public announcement or issue any public circular (including a media or press release) relating to the Contract or its subject matter without the prior written approval of the Customer; or (b) use the name or logos of the Customer and member of its group of companies or of its customers, as a reference or in any advertising or promotional materials without the Customer's prior written consent (on every occasion), which may be withdrawn at any time if it is given.

27 **JURISDICTION AND GOVERNING LAW**

The Contract, 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 at all times in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the courts of England.