

INTELISYS LIMITED trading as SALAMANDER GROUP

TERMS AND CONDITIONS OF SALE

1 FORMATION

- 1.1 All quotations and offers are made and Orders are accepted, subject to and shall be deemed to incorporate the Conditions and they shall apply to all Contracts to the exclusion of all other terms and conditions (including without limit those which the Buyer purports to apply under any Order). Variations to the terms of any contract will only be effective if agreed in writing and signed by a duly authorised officer of the Company.
- 1.2 A quotation by the Company does not constitute an offer. Quotations issued by the Company shall be valid for a maximum period of 30 days from the date of issue and may be withdrawn by the Company at any time by giving written or oral notice to the Buyer to that effect.
- 1.3 All Orders shall be deemed to be an offer and shall only be deemed accepted by the Company upon the issue of a written acknowledgement of order by the Company.
- 1.4 The Company may modify the specification of Goods or Services ordered without notice provided the modification does not materially affect the Goods or performance of the Services. The Contract is not a contract for sale of goods by description. All descriptive matter, specifications and advertising issued by the Company is solely aimed at giving an approximate idea of the Work described in them, they will not form part of the Contract.
- 1.5 Any Order accepted by the Company may only be cancelled or varied by the Buyer with the prior written consent of the Company and on terms that the Buyer shall indemnify the Company in full against all losses (including loss of profit), costs, damages, charges and expenses incurred (directly or indirectly) by the Company as a result of such cancellation or variation.

2 DELIVERY

- 2.1 Delivery times or dates named or accepted by the Company are given in good faith but are an estimate only. Time of delivery shall not be of the essence. Subject to Condition 8.1, the Company shall not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any failure to meet the delivery time/date stated/agreed (even if caused by the Company's own negligence) the Buyer shall have no right to cancel the Contract in the event of such a failure.
- 2.2 Unless otherwise agreed in writing by the Company the Services will be provided, and Goods delivered, as stated in the Company's acknowledgement of order and, in the case of Goods shall be deemed to have taken place when the Goods arrive at the place stated in the Company's acknowledgement of order or as otherwise agreed in writing by the Company except that delivery to a carrier for the purpose of transmission to the Buyer shall be deemed to be delivery to the Buyer and Section 32(2) Sale of Goods Act 1979 shall not apply.
- 2.3 The Company shall make such arrangements for carriage of the Goods and their insurance during carriage as it thinks appropriate. Goods will be packed so as to adequately protect against damage in normal conditions of transit of usual duration. Where, at the Buyer's request, Goods are forwarded by any means involving a higher carriage charge than would be incurred by the Company's usual means of carriage, then the additional charge shall be paid by the Buyer in addition to the price when the price is due.
- 2.4 Unless otherwise expressly agreed, the Company may effect delivery in one or more instalments. If delivery is effected by instalments, each instalment will be treated as a separate Contract.
- 2.5 If the Buyer fails or refuses to accept delivery of any of the Goods when they are ready for delivery in accordance with the relevant Order or the Company agrees (at its sole discretion) to postpone delivery of the Goods at the request of the Buyer or the Buyer fails to provide any instructions consents or authorisations required to enable Goods to be delivered on the due date then delivery of the Goods shall be deemed to have taken place, risk in the Goods shall pass to the Buyer and the Company may:
 - (a) store or arrange for storage of such Goods and charge the Buyer for all related costs and expenses (including without limit the costs of insurance); and
 - (b) sell such Goods after 28 days following such failure or refusal and deduct any monies payable to the Company by the Buyer from the sale proceeds and account to the Buyer for the excess or charge the Buyer for any shortfall below the Contract price.
- 2.6 If the Company agrees to permit the Buyer to collect the Goods from the Company's place of business then delivery shall be deemed to take place when the Company notifies the Buyer that the Goods are ready for collection and unless otherwise agreed in writing by the Company it is a condition of the Contract that the Buyer will collect the Goods within 7 days of such notice.
- 2.7 Upon delivery to the Buyer, all Goods should be examined. The Company shall not be liable for any shortages in, or non-delivery of, Goods unless the same is notified by the Buyer to the Company (together with all specific details) in writing within 5 days of the actual or anticipated date of delivery (as relevant). Subject to such notice being provided the Company shall, if it is satisfied that any Goods have not been delivered and the cause thereof being beyond the reasonable control of the Company, at its sole discretion, either arrange for delivery as soon as reasonably possible or give credit to the Buyer for such Goods. Shortages in, or non-delivery of some or part of the Goods shall not effect the Contract in respect of the other or other parts of the Goods.
- 2.8 As a prerequisite to the Company's delivery of the Goods and/or Services, the Customer shall provide the Company with reliable, accurate and complete information, as required and make timely decisions, and obtain all required approvals.

3 FORCE MAJEURE

In the event that the Company is prevented or delayed in or from carrying out its obligations under the Contract as a result of any cause beyond its control such as but not limited to: acts of God; governmental intervention or restriction, import or export regulations; war; riots; strikes or trade disputes (including by and with the Company's own employees); failure to obtain goods or materials or parts; power failure; inadequate performance of, failure of or incorrect processing by computer systems; fire; flood; default of suppliers or sub-contractors, or breakdown of plant, machinery or vehicles then the Company shall be relieved of its obligations and liabilities under the Contract for as long as such fulfilment is prevented.

4 RISK/TITLE

- 4.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery or at the notified time for delivery if the Buyer fails for whatever reason to take delivery of the Goods at the notified time. Section 20(2) Sale of Goods Act 1979 shall not apply.
- 4.2 Title to the Goods (both legal and equitable) shall remain with the Company until full payment with cleared funds of all monies due from the Buyer to the Company under all contracts between the parties has been made or title is properly vested in some other person by the operation of any statute.
- 4.3 Until title to the Goods passes, the Buyer shall hold the Goods on a fiduciary basis as the Company's bailee and must store the Goods (at no cost to the Company) such that they are easily identifiable as the property of the Company and must not destroy or deface any identifying marks on the Goods or their packaging; and must keep the Goods insured on the Company's behalf for the full price of the Goods against "all risks" to the reasonable satisfaction of the Company and produce the policy of insurance to the Company upon request and must hold all proceeds of such insurance on trust for the Company and shall not mingle them with any other money nor pay the proceeds into an overdrawn bank account.
- 4.4 Until title to the Goods passes, the Buyer shall unless otherwise notified by the Company, still be entitled to re-sell, use or otherwise dispose of the Goods in the ordinary course of its business provided that the Buyer shall ensure that the entire proceeds arising by

virtue of any such sale, use or disposal shall be held in trust for the Company and shall not be mixed with any other monies or paid into any overdrawn bank account and shall at all times be identifiable as monies belonging to the Company.

- 4.5 Once payment becomes due, the Company may while the owner of the Goods (without prejudice to its other rights) demand the immediate return of the Goods at any time and the Buyer must comply with (and bear the cost of) such demand immediately. If the Buyer fails to return such Goods, the Company or its successors in title, and their respective employees and agents, may enter the Buyer's premises (with or without vehicles) during normal business hours to remove the Goods (the cost of which shall be borne by the Buyer) and/or may sell or otherwise deal with the Goods.

5 PRICE

- 5.1 Unless fixed prices have been specifically agreed by the Company all prices are subject to alteration without notice and will be invoiced at the prices ruling at the date of despatch of Goods or performance of Services.
- 5.2 Unless otherwise agreed in writing by the Company, prices set out in any of the Company's price lists, quotations and acknowledgement of order are exclusive of the costs of packaging transport and insurance which the Buyer shall be additionally liable to pay to the Company, and exclusive of any value added, purchase or other taxes which shall be payable in addition to the price when the price is due.

6 PAYMENT

- 6.1 The Company may invoice the Buyer for the Goods and/or the Services at any time after delivery of the Goods and/or performance of the Services and Goods delivered in instalments and Services performed in sections may be invoiced separately provided that if delivery of Goods and/or performance of services is postponed at the request or by the default of the Buyer then the Company may submit its invoice at any time after the Goods are ready for delivery and/or Services are ready for performance or would have been ready in the ordinary course but for the request or default on the part of the Buyer.
- 6.2 Buyers who have not been granted by the Company (in its sole discretion) a credit account facility shall pay the Contract price within 30 days of the date of the invoice.
- 6.3 Payment shall only be deemed received by the Company from the Buyer upon receipt by the Company of payment in full in cleared funds. Payment shall be made in full without any deduction, legal or equitable set off or abatement on any grounds. The Company may appropriate any payment made by the Buyer to any outstanding invoice. The Company may bring an action for the price of the Goods even though the property in them may not have passed to the Buyer.
- 6.4 Time for payment of the Contract price (including, without limit, any costs or charges payable pursuant to Condition 2.c)) shall be of the essence. The Buyer shall indemnify the Company against all expenses and legal costs incurred by the Company in recovering overdue amounts. Interest shall be payable by the Buyer on overdue amounts (before as well as after judgement) at the annual rate of 4 per cent above the base lending rate of the Royal Bank of Scotland plc from time to time on the outstanding amount until the Contract price and/or such costs and/or charges are paid in full. The Company reserves the right to claim interest under the Late Payment of Commercial Debt (Interest) Act 1998.

7 QUALITY

- 7.1 The Buyer is relying on its own skill and judgment in relation to the Works irrespective of any knowledge which the Company or its servants, agents or employees may have or as to the purpose for which the Goods are supplied or their suitability.
- 7.2 Subject to Condition 7.1 and 7.4, the Company warrants that all Goods (save for software) shall upon delivery and for a period 12 months thereafter be of satisfactory quality and be reasonably fit for any purpose for which they are commonly supplied and that all Services shall be carried out with reasonable skill and care.
- 7.3 In relation to the supply of software, the Company warrants that the software supplied shall upon delivery and for a period of 12 months thereafter conform materially with its specification. Without prejudice to the foregoing, the Company does not warrant that the operation of the software will be uninterrupted or error free.
- 7.4 The warranties given in Conditions 7.2 and 7.3 will not apply;
- (a) where the defect complained of arises from any drawing, design, specification or IPR supplied by the Buyer or arises from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing or whether relating without limit to the fabrication (including, without limit, the quality or performance of fabrics), operation, use or maintenance of the Goods), or misuse, alteration opening or repair of the Goods without the Company's approval;
- (b) if the Company or its agents is not permitted to safely inspect the Work;
- (c) if the total price for the Goods or Services has not been paid by the due date for payment;
- (d) to any parts, materials or equipment not manufactured by the Company, in respect of which the Buyer shall only be entitled to the benefit of any warranty or guarantee as is given by the manufacturer to the Company.
- 7.5 The obligations of the Company under the Contract are limited such that in the event of a breach by the Company of the warranties in Conditions 7.2 and 7.3 or any defect in any Goods or Services the Company shall only be obliged (and shall have no further liability in contract, negligence or otherwise for any defect in quality of the Goods and/or Services or fitness for purpose of the Goods) at its options either to credit the price (if already paid) attributable to the faulty Goods or Services or repair, rectify or replace the faulty Goods provided that such Goods are returned to the Company or its agent in their delivered state, at the Buyer's expense, cleared of all contaminants to the Company's reasonable satisfaction.

8 LIMITATION OF LIABILITY

- 8.1 Nothing in these Conditions shall exclude or limit the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
- 8.2 The Company shall not be liable to the Buyer in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof, (i) for any economic loss of any kind whatsoever, including without limit loss of profit, business contracts, revenues or anticipated savings, or (ii) for damage to the Buyer's reputation or goodwill, or (iii) for any loss resulting from any claim made by any third party, or (iv) for any special, indirect or consequential loss or damage of any nature whatsoever.
- 8.3 Without prejudice to Condition 7.5, 8.1 and 8.2 the Company's liability in contract tort, (including negligence or breach of statutory duty) or otherwise arising by reason of or in connection with the Contract shall be limited to the greater of the Contract price [or the amount received by the Company for a claim under its insurance policy covering such risks] provided that nothing in this Condition shall oblige the Company to obtain any insurance or claim upon any insurance which it holds. The Buyer acknowledges that delay in notifying any claim may prevent the Company recovering any money under such policy.
- 8.4 The Buyer warrants that the use by the Company of any IPRs, designs, specifications, drawings or other materials or information of any nature provided to the Company by the Buyer pursuant to an Order shall not infringe any third party's IPRs. If any claim is brought or threatened against the Company in respect of such an infringement the Company, shall be entitled to suspend carrying out further Work to the Buyer, and the Buyer shall indemnify the Company against all actions, claims, costs, demands, expenses and liabilities of whatsoever nature suffered or incurred by the Company as a result of any such claim or threatened claim brought against the Company.
- 8.5 Nothing in these Conditions shall be construed as a representation or warranty by the Company that the design, manufacture, use or sale of the Goods or the provisions of the Services is not an infringement of any third party's IPRs.

9 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

- 9.1 The Buyer shall not, under any circumstances acquire any right in or to any of the IPRs (including, without limitation, copyright) subsisting in, resulting from or relating to Work, or any documents, drawings, specifications and/or patterns relating thereto either (i) supplied by the Company to the Buyer in connection with Work, or (ii) resulting from Work, unless otherwise expressly agreed by the Company in writing. If the Buyer shall in any way acquire any such rights then the Buyer shall immediately inform the Company and shall forthwith take such steps as may be required by the Company to assign such rights or vest such title in the Company.
- 9.2 The Company shall have the right to apply any trademarks, trade names and/or service marks to the Goods. The Buyer acknowledges that no rights are granted to the Buyer by the use by the Buyer of such trademarks, trade names and/or service marks. The Buyer shall not deface, remove or obliterate any trademarks, trade names or logos applied by the Company on or in relation to the Goods.
- 9.3 Where the Goods are not manufactured by the Company, the Company gives no assurance or guarantee that the sale or use of the Goods will not infringe the IPRs of any third party.
- 9.4 The Buyer shall keep confidential and not use, without the prior written consent of the Company, all or any information including without limit, those (as referred to in Condition 9.1) supplied by the Company to the Buyer or disclosed to or obtained by the Buyer pursuant to or as a result of the Contract, and shall not divulge the same to any third party except to the extent that any such information is or becomes public through no fault of the Buyer, or disclosure of the same is required by law or by any other governmental or other regulatory body.

10 TERMINATION

Without prejudice to any of its other rights the Company may immediately terminate the Contract and demand payment of any amount due or accruing to the Company whether under the Contract or otherwise, re-sell the Goods and/or cancel services and/or withhold or cancel any deliveries if any of the following occurs or is likely to occur:

- (a) the Buyer is in breach of any of its obligations under the Contract which, if capable of remedy, the Buyer has not remedied within 30 days of receiving written notice from the Company; or
- (b) the Buyer is or becomes Insolvent or the Buyer suffers a distress or execution or other legal process to be levied or enforced or sued upon or against any part of the property, assets or revenue of the Buyer which is not discharged or stayed within 7 days or the Buyer ceases or threatens to cease to carry on business.
- (c) the Buyer comes under the control, directly or indirectly, of any person who does not control the Buyer at the date of the contract. In this clause, "control" means either having the right to exercise voting rights in respect of more than 50% of the equity share capital of the Buyer or having control of its board of directors.

11 GENERAL

- 11.1 The failure to exercise or delay in exercising by the Company of a right or remedy provided by the Contract or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.
- 11.2 The Buyer shall not be entitled to assign or sub-contract any of its rights or the obligations under the Contract, without the prior written consent of the Company. The Company may assign, license or sub-contract all or any part of its rights or obligation under the Contract without the Buyer's consent.
- 11.3 The Conditions contains the whole agreement between the Company and the Buyer. All other understandings, agreements, warranties, conditions, terms or representations, whether express or implied, statutory or otherwise, are excluded to the fullest extent permitted by law.
- 11.4 A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 11.5 The Contract shall be construed in accordance with and governed in all aspects by the Laws of England and the Buyer submits to the exclusive jurisdiction of the English courts.

12 EXPORT SALES

Notwithstanding any other Condition, where Goods are sold for export outside the United Kingdom:

- (a) the Uniform Laws on International Sales Act 1967 shall not apply and the Company shall be under no obligation to give notice under Section 32(3) of the Sales of Goods Act 1979;
- (b) Section 26(3) of the Unfair Contract Terms Act 1977 shall apply and subject to Condition 8.1 all liabilities for injury or death arising directly from the use of the Goods are expressly excluded;
- (c) unless otherwise agreed in writing by the Company the currency will be pounds sterling and payment shall be by confirmed irrevocable letter of credit to a bank nominated by the Company at the Buyer's expense;
- (d) the Buyer shall be responsible for complying with any legislation or regulations governing the export of the Goods from the United Kingdom and governing the importation of the Goods into the country of destination and for the payment of any duties or taxes on them.

13 INTERPRETATION

In these Conditions unless the context requires otherwise any reference to the singular shall include the plural and vice versa and;

"Buyer" means the person, firm or company that has requested any Work;

"Company" means Intelisys Ltd;

"Conditions" means the standard terms and conditions of sale set out herein;

"Contract" means any contract for Work which incorporates these Conditions;

"Goods" means any goods supplied or to be supplied by the Company as set out in the Company's acknowledgement of order;

"Insolvency" means in relation to an individual, partnership or company the appointment of any nominee, sequestrator, trustee, supervisor, receiver or liquidator (as relevant) pursuant to the Insolvency Act 1986 or the appointment of a manager or receiver (as relevant) pursuant the Law of Property Act 1925 or the occurrence of sufferance of anything equivalent under any jurisdiction other than England or Wales or the calling of any meeting or the passing of any resolution whether formal or informal for the purpose of proposing the taking any of the foregoing steps and "Insolvent" shall be construed accordingly;

"IPRs" means any intellectual property rights of any nature including without limit any and all inventions, patents, utility models, design rights, copyright, database rights, know-how, trade secrets, confidential information, trade marks, service marks, trade names and goodwill;

"Order" means any order placed by the Buyer with the Company for Work;

"Services" means any services supplied or to be supplied to the Buyer by the Company as set out in the Company's acknowledgement of order;

"Work" means the Goods and/or Services.