



## 1. INTERPRETATION

### 1.1 In these Conditions unless the context otherwise permits:

"Authorised Representative" means a person whose job title is that of Director or Managing Director or a person who holds the office of director.

"Consumer" shall mean any natural person who in the contract with the Customer is acting for purposes that are not related to his trade, business or profession.

"Customer" means the person, firm, company, entity or organisation with whom TWIN TECHNOLOGY contracts for the sale of Products and/or supply of Services.

"the Conditions/ these Conditions" means the standard terms and conditions of sale set out in this document or such replacement standard terms and conditions notified to Customer as are in force at the date of the Contract and which at that date appear on TWIN TECHNOLOGY's web site at [www.twintechnology.co.uk](http://www.twintechnology.co.uk) and/or which are available on request at TWIN TECHNOLOGY's principal trading address at Gresham House, 7th Floor, 53 Clarendon Road, Watford, Hertfordshire, WD17 1LA England.

"the Contract" means any contract for the purchase and sale or other supply of Products and/or the supply of Services by TWIN TECHNOLOGY to a Customer.

"Electronic Means" means any electronic means including without limit on the Web, by EDI or XML, or Inside Line®.

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

"TWIN TECHNOLOGY" means TWIN TECHNOLOGY Ltd (registered in England number 5739269 ) with its registered office at Gresham House, 7th Floor, 53 Clarendon Road, Watford, Hertfordshire, WD17 1LA England.

"Products" means any Products (including, for the avoidance of doubt software and instalments of the Products or any parts of or for them) sold by TWIN TECHNOLOGY to a Customer.

"Services" means any services supplied by TWIN TECHNOLOGY to the Customer.

"Special Order Products" shall mean Products that are classified in TWIN TECHNOLOGY's current comprehensive product listing as special order products or have been ordered specifically by Customer or configured to Customer's specifications.

### 1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 1.3 The Conditions shall apply to sales of all Products including Special Order Products ordered for shipment to or within the UK mainland. TWIN TECHNOLOGY reserves the right to apply supplemental or other terms for Products to be shipped by TWIN TECHNOLOGY outside the UK mainland.

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1.4. Without prejudice to the application of these Conditions additional and more detailed terms may apply for certain Products and suppliers including specific terms applicable to special prices offered by suppliers through TWIN TECHNOLOGY ("Special Terms"). These Special Terms will be made available on TWIN TECHNOLOGY's web site [www.twintechnology.co.uk](http://www.twintechnology.co.uk). The Special Terms may oblige the Customer to comply with certain requirements including but not limited to (i) the sale of the Products only to specifically named end users; (ii) the disclosure of end user information to TWIN TECHNOLOGY and its suppliers for the purpose of end user verification; and (iii) the submission of copies of end user invoices, end user purchase orders or end user shipping documents to TWIN TECHNOLOGY and its suppliers. Subject to the Special Terms applicable for the individual suppliers and Products, noncompliance with the Special Terms may entitle TWIN TECHNOLOGY and/or its suppliers to reclaim and invoice the Customer in full for all discounts, rebates and other special price conditions granted to the Customer under the special price. It is the Customer's responsibility to be aware of and adhere to the Special Terms as current from time to time. By ordering Products at special prices offered through TWIN TECHNOLOGY the Customer agrees to be bound by the applicable Special Terms.

## 2. BASIS OF THE SALE

2.1 All Contracts between TWIN TECHNOLOGY and a Customer shall be governed by these Conditions (and, where applicable, any other terms and conditions pursuant to Clause 1.3 and/or Clause 1.4) to the exclusion of any other terms and conditions not accepted in writing by an Authorised Representative of TWIN TECHNOLOGY, including without limit any terms on or referred to in any Customer purchase order. In the case of orders placed by Electronic Means which refer to any terms and conditions of the Customer TWIN TECHNOLOGY's automatic taking on to its system of such order shall amount to a rejection of the Customer's terms and conditions and an offer to supply the Products ordered on the basis of these Conditions. No variation to these Conditions shall be binding unless agreed by TWIN TECHNOLOGY signed by a TWIN TECHNOLOGY Ltd Terms & Conditions of Sale Authorised Representative of TWIN TECHNOLOGY. It is the Customer's responsibility to be aware of the Conditions as current from time to time but TWIN TECHNOLOGY will use best efforts to notify Customer of any material changes to the Conditions before they become applicable. In addition to any acceptance of these Conditions by signing TWIN TECHNOLOGY's account application form, the Customer's acceptance of these Conditions shall also be made (in respect of the first Contract and all subsequent Contracts) either by (1) Customer providing a purchase order to TWIN TECHNOLOGY or (2) Customer accepting Products or Services from TWIN TECHNOLOGY, whichever occurs first.

2.2 No employee or agent of TWIN TECHNOLOGY other than an Authorised Representative has any authority to make any representation at all concerning Products or Services and an Authorised Representative has no authority to make such representation other than by TWIN TECHNOLOGY (an "authorised representation") and accordingly Customer agrees that in entering into any Contract it does not rely on any unauthorised representation and Customer agrees it shall have no remedy in respect of any unauthorised representation (unless made fraudulently) .



### 3. CUSTOMER IDENTIFICATION

3.1 In placing an order including by Electronic Means Customer may utilise one or a combination of account name, account number and other forms of identification including password or other code issued to Customer (together and individually "Customer's Identification" or "Customer Identification").

3.2 It is the Customer's responsibility to keep the Customer's Identification confidential. Customer has the sole responsibility for its Customer Identification. Customer shall immediately inform TWIN TECHNOLOGY in case of loss of password or in case of any abuse or attempted abuse of Customer password or other Customer Identification. Customer agrees that Customer is entirely responsible for use of Customer's Identification and that it is Customer's responsibility to have in place security measures and procedures to ensure use of its Customer Identification only by authorised personnel for authorised purposes.

3.3 Customer agrees that TWIN TECHNOLOGY is entitled to rely absolutely on any orders placed on TWIN TECHNOLOGY which have utilised Customer's Identification and to deliver as directed by such orders and to invoice and be paid in respect of such orders.

3.4 Customer agrees that any order placed on TWIN TECHNOLOGY including by Electronic Means mentioning or utilising Customer's Identification is a valid and binding purchase order.

3.5 Customer acknowledges that TWIN TECHNOLOGY cannot guarantee the security of the Internet and the possibility of interception or corruption of data transmitted from Customer to TWIN TECHNOLOGY using correct Customer Identification, and that TWIN TECHNOLOGY is nonetheless entitled to rely on data transmitted in the form it is received at TWIN TECHNOLOGY.

### 4 TWIN TECHNOLOGY INFORMATION

4.5 All Product pricing, description, availability and related information ("Information") provided by TWIN TECHNOLOGY, in any form, is the property of TWIN TECHNOLOGY or its suppliers. TWIN TECHNOLOGY hereby grants Customer a limited, nonexclusive, non-transferable license to use the Information for its internal use only for the purpose of Customer's purchases and sales of Products sold by TWIN TECHNOLOGY to it. TWIN TECHNOLOGY shall be entitled to stop the provision of Information at any time without notice. Customer agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the Information or utilise the Information for any purpose except as permitted herein. TWIN TECHNOLOGY makes no warranty, either express or implied on the Information or its accuracy. All Information is provided to Customer "as is." If TWIN TECHNOLOGY provides Information to Customer by Electronic Means, Customer agrees to update such Information regularly to ensure its accuracy. Customer agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the Information or utilise the Information for any purpose except as permitted herein. Specifically but without limitation Customer is not entitled to utilise Information for any purpose other than in the normal course of business of a reseller and is not entitled to use, reproduce or display the Information in any way, which in TWIN TECHNOLOGY's opinion; (1) would enable it to be identified as information obtained from TWIN TECHNOLOGY (2) would enable comparison of the Information with other suppliers' information relating to products or (3) could be damaging to TWIN TECHNOLOGY's business interests.

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4.6 TWIN TECHNOLOGY agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any Customer sensitive information or utilise such information for any purpose if Customer has notified TWIN TECHNOLOGY in writing that it is confidential.

## 5. ORDERS AND SPECIFICATIONS

5.1 The Customer shall be responsible to TWIN TECHNOLOGY for ensuring the accuracy of the terms of any purchase order.

5.2 TWIN TECHNOLOGY reserves the right to make any changes to the Contract due to changes in the specification of the Products which are required to conform with any applicable safety or other statutory requirements. These changes will be duly notified to the Customer. The Customer cannot cancel or reschedule the Contract provided the changes do not alter the material terms of the Contract. For other types of changes, the possibility of cancellation will be subject to TWIN TECHNOLOGY's discretion and conditions.

5.3 TWIN TECHNOLOGY is under no obligation to accept the withdrawal of an order or the cancellation of a Contract which has been accepted by TWIN TECHNOLOGY. If TWIN TECHNOLOGY agrees to accept the Customer's withdrawal of any order or the cancellation of a Contract such agreement will only be effected by means of letter, fax or email signed or sent by an Authorised Representative of TWIN TECHNOLOGY.

5.4 Notwithstanding any other terms of these Conditions it is agreed that the provision or display of Product pricing and other Information (as defined in Clause 4.1) by TWIN TECHNOLOGY to Customer does not amount to an offer by TWIN TECHNOLOGY to sell such Product at that price or on any other terms. Supply of such Information is only an invitation to treat. An order by the Customer for Product or Services shall be the offer.

5.5 In the case of orders placed by Electronic Means only, notwithstanding any acceptance by TWIN TECHNOLOGY of any offer for any Product, if there has been a material or obvious pricing error by TWIN TECHNOLOGY, TWIN TECHNOLOGY shall be entitled within 30 days of its acceptance of such offer to either invoice the Customer for the Customer's true list price (not exceeding the prevailing market price at wholesale level) of the Product at the date of order or, if the Customer shall prefer, collect the Product at TWIN TECHNOLOGY's expense and credit the Customer for any charges (e.g. price and freight) invoiced by TWIN TECHNOLOGY.

5.6 Orders for direct shipment to Customer's customers or Special Order Products may require prepayment and will be subject to additional fees.

5.7 TWIN TECHNOLOGY may advise prior to shipping, that a minimum order quantity is required. Should this occur we have the right to refund or not void such order below the threshold.

## 6 PRICE OF THE PRODUCTS

6.1 Subject to the provisions of Clause 5.5 and Clause 6.2:

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6.1.1 Prices for Products in TWIN TECHNOLOGY's stock ready to be shipped will be established at the time the order is accepted by TWIN TECHNOLOGY;

6.1.2 If the Customer places an order for Products not in stock at the time of order (a "Backorder") or the Customer places an order for scheduled delivery, such orders shall be irrevocable and the price for such Products shall be the price established at the time the Backorder or scheduled delivery is accepted by TWIN TECHNOLOGY.

6.2 Notwithstanding any of the foregoing TWIN TECHNOLOGY reserves the right to increase its prices after acceptance of an order due to an increase in its supplier's price to TWIN TECHNOLOGY or an increase in direct costs to which TWIN TECHNOLOGY becomes subject (including without limit costs resulting from currency fluctuation) but TWIN TECHNOLOGY shall only increase its price by such level as is necessary to reflect such increases.

6.3 All prices exclude the cost of delivery from TWIN TECHNOLOGY's warehouse to the Customer's delivery point, configuration, fulfilment and other services provided by TWIN TECHNOLOGY.

6.4 All prices and charges are exclusive of any applicable Value Added Tax, which the Customer will be additionally liable to pay to TWIN TECHNOLOGY. Unless otherwise stated prices exclude any copyright levies, waste and environmental fees, and similar charges that TWIN TECHNOLOGY by law or statute may or shall charge or collect upon resale.

6.5 If Customer is offered special pricing for certain orders and such pricing is made available to TWIN TECHNOLOGY from its suppliers ("Special Bids"), the Customer shall adhere to the terms and conditions of such Special Bids and agrees to indemnify TWIN TECHNOLOGY for any claims made against TWIN TECHNOLOGY by the suppliers for TWIN TECHNOLOGY Ltd Terms & Conditions of Sale Customer's non-compliance with the supplier's terms and conditions. Customer agrees to pay any service fees charged for TWIN TECHNOLOGY's passthrough of Special Bids and other supplier driven benefits the Customer may receive, including any marketing funding, price protection and individual rebates, and agrees that passthrough and payment of such benefits will be subject to TWIN TECHNOLOGY having received the benefits from its supplier.

## 7. TERMS OF PAYMENT

7.1 Unless TWIN TECHNOLOGY shall have previously agreed in writing with the Customer that the Products shall be supplied on credit, payment for the Products shall be made in full by the Customer with the Customer's order or on delivery or collection of the Products as determined by TWIN TECHNOLOGY. If payment is made by credit or debit card the Customer agrees to pay all fees and service charges incurred by TWIN TECHNOLOGY for the handling of such transaction including fees charged by the card company to TWIN TECHNOLOGY.

7.2 Where TWIN TECHNOLOGY has agreed to supply the Products on credit Customer shall pay the price of the Products within 30 days of the date of TWIN TECHNOLOGY's invoice notwithstanding that title to the Products has not passed to the Customer. Customer may take advantage of an early payment discount subject to meeting the conditions detailed on TWIN TECHNOLOGY's website [www.twintechnology.co.uk](http://www.twintechnology.co.uk). Customer shall not deduct or set off any other amount against the invoice as compensation for any payment made prior to the due date. Invoices will be dated the day of dispatch of the Products. TWIN TECHNOLOGY shall be entitled at its absolute discretion to alter payment terms (other than on concluded Contracts) and withdraw or alter any credit limit granted at any time with Gresham House, 7th Floor, 53 Clarendon Road, Watford, Hertfordshire, WD17 1LA

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notice. If Customer exceeds its credit limit or fails to qualify for continued credit terms, TWIN TECHNOLOGY may, at its sole discretion, delay subsequent shipments or require prepayment until TWIN TECHNOLOGY determines that Customer is once again qualified to receive credit terms. Customer shall not set off or withhold any amount due to TWIN TECHNOLOGY against its receivables without TWIN TECHNOLOGY's prior written approval, and shall in the event of a bona fide dispute, pay any undisputed part of the invoice.

7.3 The time of payment shall be of the essence. If the Customer fails to make a payment on the due date then without prejudice to any other right or remedy available to it TWIN TECHNOLOGY shall be entitled to:

7.3.1 cancel the Contract or suspend any further deliveries or suspend any Services to the Customer; TWIN TECHNOLOGY may at its discretion grant Customer a reasonable cure period before cancelling the Contract due to nonpayment;

7.3.2 appropriate any payment made by the Customer to such of the Products as TWIN TECHNOLOGY may think fit (notwithstanding any purported appropriation by the Customer);

7.3.3 charge the Customer interest (both before and after judgement) on the amount unpaid at the rate of 5% per annum above Lloyds TSB base rate from time to time until payment in full is made such interest being calculated on a daily basis.

7.4 Upon request in writing and with agreement the Customer shall provide TWIN TECHNOLOGY's Credit Department with copies of its annual financial statements and if available quarterly statements within sixty (60) days of the close of the fiscal period to which they relate. Customer shall inform TWIN TECHNOLOGY promptly if there is a change of ownership or control of Customer or its direct or indirect parent company (excluding changes of ownership of the shares of a publicly quoted company which do not result in a change in control of the company's board of directors or other governing board), a management buyout, or all or a substantial part of the Customer's assets are sold or otherwise transferred to any nonaffiliated company or member of the Customer's group of companies.

7.5 In the event Customer intends to sell, assign, factor or otherwise transfer any book debt owed to Customer or to enter into any form of invoice discounting arrangement Customer agrees to inform TWIN TECHNOLOGY in writing prior to entering into any such arrangements.

7.6 It is TWIN TECHNOLOGY's policy not to accept cash as a method of payment for Products or Services.

7.7 If TWIN TECHNOLOGY issues a credit note and the Customer does not utilise the credit note within a period of 12 months from the date of its issue TWIN TECHNOLOGY shall have the right to cancel the credit note and the Customer shall not be entitled to a replacement or any payment in respect of the same.

7.8 Any credit balance shown on a Customer's statement of account issued by TWIN TECHNOLOGY which remains on the statement for a period of 12 months will be forfeited by the Customer who shall no longer have any rights to the same.

## 8. DELIVERY

8.1 Delivery of the Products shall be made by TWIN TECHNOLOGY to such place as shall have been agreed between TWIN TECHNOLOGY and the Customer. Unless the Customer shall have notified TWIN TECHNOLOGY in writing within 5 working days of the date of TWIN TECHNOLOGY's invoice that the

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Products have not been delivered then delivery shall be deemed to have taken place in accordance with the Contract and the Customer shall not be entitled to raise any claim of short or misshipment.

8.2 TWIN TECHNOLOGY shall be entitled to assume that any person who both reasonably appears and claims to have authority to accept delivery who signs a note in respect of the Products on behalf of the Customer or the Customer's customer (if TWIN TECHNOLOGY has agreed to deliver direct) does in fact have the authority.

8.3 Any dates quoted for the delivery of Products are approximate only and TWIN TECHNOLOGY shall not be liable for any delay in delivery of the Products howsoever caused.

8.4 Partial delivery is allowed unless otherwise mutually agreed by both parties. Failure by TWIN TECHNOLOGY to deliver the rest of the Products shall not entitle the Customer to treat the order as a whole as repudiated.

8.5 For the purpose of these Conditions where TWIN TECHNOLOGY has agreed to deliver Products direct to the Customer's customer any such delivery shall be deemed to be delivery to the Customer and any refusal by the Customer's customer to accept delivery shall be deemed to be a refusal by the Customer.

8.6 The Customer shall bear all costs associated with the unjustified refusal of delivery of Products. If the refusal is made on the grounds that the order was wrongly placed (i.e. wrong product, wrong pricing, etc.) and the refusal is accepted by TWIN TECHNOLOGY, TWIN TECHNOLOGY reserves its right to charge accordingly additional fees for return transportation and administrative expenses related thereto, and original carriage costs will not be reimbursed.

## 9. RISK AND TITLE

9.1 Risk of damage to or loss of Products shall pass to the Customer at the time of delivery or if the Customer unjustifiably fails to take delivery of Products the time when TWIN TECHNOLOGY has tendered delivery of the Products.

9.2 Notwithstanding delivery and the passing of risk of the Products or any other provisions of these Conditions, title to the Products shall not pass to the Customer until TWIN TECHNOLOGY has received in cleared funds payment in full of:

9.2.1 the Products; and

9.2.2 all other sums which are or which become due to TWIN TECHNOLOGY from the Customer on any account.

9.3 Until such time as title to the Products passes to the Customer the Customer shall:

9.3.1 hold the Products as TWIN TECHNOLOGY's fiduciary agent and bailee; and

9.3.2 keep the Products separate to those of the Customer and third parties; and

9.3.3 keep the Products properly stored protected and insured, and identified as TWIN TECHNOLOGY's property; and

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9.3.4 accept that Products may be labelled as being TWIN TECHNOLOGY's property until TWIN TECHNOLOGY is paid.

9.4 Until such time as the title in the Products passes to the Customer (and provided the Products are still in existence and have not been resold) TWIN TECHNOLOGY shall be entitled at any time to require the Customer to deliver up the Products to TWIN TECHNOLOGY and if the Customer fails to do so forthwith to enter upon any premises of the Customer or any third party where the Products are stored and repossess the Products.

9.5 The Customer's right to possession of the Products shall terminate immediately if:

9.5.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act 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 a resolution is passed or a petition presented to any court for the winding up of the Customer or TWIN TECHNOLOGY Ltd Terms & Conditions of Sale 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

9.5.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Contract or any other contract between TWIN TECHNOLOGY 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; or

9.5.3 the Customer encumbers or in any way charges any of the Products.

9.6 Customer is entitled to resell the Products in the ordinary course of business. Customer is not able or entitled to offer the Products as collateral or otherwise grant a charge in respect of the Products until title has passed to the Customer in accordance with these Conditions. Customer shall inform its customers that title to the Products is retained by TWIN TECHNOLOGY until Customer has paid TWIN TECHNOLOGY, and shall ensure that its customer has agreed with the Customer that any unpaid Products shall be returned to TWIN TECHNOLOGY in the event of Customer's failure to pay TWIN TECHNOLOGY's invoices when they fall due. The Customer shall upon TWIN TECHNOLOGY's request provide TWIN TECHNOLOGY with all details and information necessary for TWIN TECHNOLOGY to collect the Products.

## 10. WARRANTIES AND LIABILITY

10.1 TWIN TECHNOLOGY does not manufacture the Products (or where the Products comprise computer software does not publish or license the software) and subject to the conditions set out below in this Clause 10 TWIN TECHNOLOGY only sells the Products with the benefit of the manufacturer's or publisher's or licensor's ("publisher's") warranty (as the case may be).



10.2.1 TWIN TECHNOLOGY will accept liability for defective Products only to the extent that TWIN TECHNOLOGY is entitled to make a claim under the manufacturer's or publisher's, Dead on Arrival, warranty or other defective goods terms and actually obtains from the manufacturer or publisher a refund credit repair or replacement in respect of the defective Products. Processing of these defective Products shall be made according to the manufacturer's procedure and the instructions set out in Clause 10.4 below. TWIN TECHNOLOGY cannot and shall have no obligation to accept a return of and/or grant a credit for Product not compliant with the manufacturer's procedures.

10.2.2 TWIN TECHNOLOGY shall be under no liability in respect of any defect arising from fair wear and tear wilful damage negligence abnormal working conditions failure to follow TWIN TECHNOLOGY's or the manufacturer's or publisher's instructions (whether oral or in writing) misuse or alteration or repair of the Products without TWIN TECHNOLOGY's approval

10.2.3 TWIN TECHNOLOGY shall be under no liability under the above warranty if the total price of the Products has not been paid.

10.3 All warranties, conditions or other terms implied by common law or statute or otherwise in connection with the sale or supply of goods or goods or services (save, in the case of goods, as to title) are excluded to the fullest extent permitted by law.

10.4 Any claim by the Customer which is based on a defect in the quality or condition of the Products shall be notified to TWIN TECHNOLOGY's Customer Services Department. Upon notification of any such claim by the Customer TWIN TECHNOLOGY shall either notify the Customer whether the policy of the manufacturer of the Products is to deal with the Customer direct (in which case the Customer shall deal with the manufacturer direct provided TWIN TECHNOLOGY gives sufficient details to enable the Customer so to do) or shall provide the Customer with an RMA number (in which case the Customer shall return the Products to TWIN TECHNOLOGY in their original UNMARKED packaging together with details of the RMA number and the Customer's name and address). If TWIN TECHNOLOGY issues an RMA number to the Customer TWIN TECHNOLOGY shall not send any replacement Products to the Customer until after the original Product has been returned to TWIN TECHNOLOGY. This Clause 10.4 shall only apply to Products the Customer is entitled to return to TWIN TECHNOLOGY as provided in these Conditions.

10.5 TWIN TECHNOLOGY shall not be liable to the Customer for any economic or financial loss or damage (including without limit any loss of profits, loss of revenue, liabilities incurred by the Customer to third parties relating to Products delivered or Services rendered by TWIN TECHNOLOGY, or additional expenses incurred or the cost of time spent) or any consequential, indirect, or special loss or damage costs expenses or other claims for consequential compensation whatsoever (including without limit loss of or damage to data or loss of goodwill) incurred or suffered by the Customer and in every case howsoever caused or arising (and whether caused by the negligence of TWIN TECHNOLOGY its employees or agents or otherwise).

10.6 TWIN TECHNOLOGY's liability for direct loss or damage arising from damage to tangible property for which TWIN TECHNOLOGY is liable shall be limited to the VAT exclusive price of the relevant Product or Service in connection with which any claim for damage or loss is made.

10.7 Nothing in these Conditions shall in any way exclude or limit any liability TWIN TECHNOLOGY may have for death or personal injury caused by its negligence.

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10.8 TWIN TECHNOLOGY shall not be liable to the Customer or be deemed to be in breach of any Contract by reason of any delay in performing or any failure to perform any of TWIN TECHNOLOGY's obligation in relation to the Products or Services if the delay or failure was due to any cause beyond TWIN TECHNOLOGY's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond TWIN TECHNOLOGY's reasonable control:

10.8.1 Act of God explosion flood tempest fire or accident;

10.8.2 act of terrorism war or threat of war sabotage insurrection civil disturbance or requisition;

10.8.3 acts restrictions regulations byelaws prohibitions or measures of any kind on the part of any governmental or parliamentary or local authority;

10.8.4 import or export regulations or embargoes;

10.8.5 strikes lock outs or other industrial actions or trade disputes (whether involving employees of TWIN TECHNOLOGY or a third party);

10.8.6 difficulties of TWIN TECHNOLOGY's supplier in obtaining raw materials labour fuel parts or machinery.

10.9 If Customer is selling Products or Services purchased from TWIN TECHNOLOGY to a Consumer the Customer shall ensure the Consumer is given sufficient and appropriate information and descriptions as to the Product's or Services' fitness for the purpose for which the Products or Services are normally used and any particular purpose the Consumer has required or agreed with the Customer. Customer shall not remove or replace any labelling, user manuals, components or other material from the Product as supplied by the manufacturer or TWIN TECHNOLOGY, and shall not in its advertising, marketing or labelling provide any public statements on the specific characteristics of the Products or Services on behalf of TWIN TECHNOLOGY, the manufacturer or their representatives.

10.10 Customer accepts liability for the Products' conformity with the Customer's Consumer contract ('conformity' as defined by the EU Directive 1999/44/CE of May 25, 1999 and legislation implementing the Directive), and Customer shall not offer any warranties or representations to the Consumer as to the quality, fitness for purpose of the Products without the manufacturers' express consent. Customer agrees to hold harmless and indemnify TWIN TECHNOLOGY and the manufacturers against any loss, costs, and damages caused by the Customer's acts or omissions, and noncompliance with the obligations set forth in Clause 10.9, Clause 10.10 and Clause 10.11. If Customer is held liable to the Consumer caused by a Product's lack of conformity resulting from an act or omission by the manufacturer or TWIN TECHNOLOGY, or any other intermediary, Customer may by law or statute be entitled to pursue remedies against TWIN TECHNOLOGY, the manufacturer or any other person liable in the contractual chain. Provided Customer is legally entitled to pursue such remedies and TWIN TECHNOLOGY is held liable by a competent court of law, TWIN TECHNOLOGY's liability to Customer shall be limited to an amount corresponding to the Customer's original purchase price of the Product or Service giving rise to the claim by the Consumer.

10.11 Should the Product warranties offered by the manufacturers or TWIN TECHNOLOGY under these Conditions be restricted compared to the guarantees the Consumer is entitled to under law, the Customer agrees to take sole responsibility towards the Consumer for the excess liability and waives any claim it may have against TWIN TECHNOLOGY in respect of such excess.

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10.12 The Products are subject to the intellectual property rights of TWIN TECHNOLOGY's suppliers (i.e. the Product manufacturers). Customer is not authorised to alter, cover, or remove any reference to such intellectual property rights on the Products, and shall adhere to any guidelines and restrictions provided by TWIN TECHNOLOGY's suppliers with respect to such rights. TWIN TECHNOLOGY shall have no duty to defend, indemnify or hold Customer harmless from and against any or all claims brought against Customer or damages and costs incurred by Customer arising from the infringement of a third party's intellectual property rights, except to the extent TWIN TECHNOLOGY's supplier is offering such defence or indemnification to TWIN TECHNOLOGY on a pass through basis. Upon threat of claim or claim of infringement, TWIN TECHNOLOGY may, at its option (i) procure the right to continue using any part of Product, (ii) replace the infringing Product with a non-infringing Product of similar performance, or (iii) refund to the Buyer the purchase price paid by the Buyer for the infringing Product. Notwithstanding any other terms or conditions to the TWIN TECHNOLOGY Ltd Terms & Conditions of Sale contrary TWIN TECHNOLOGY's liability for infringement of intellectual property rights under these Conditions shall not exceed the Customer's purchase price for the infringing Products.

## 11. RETURNS AND REPAIRS

11.1 Except for Special Order Products, which are expressly excluded from the terms of this Clause 11 and cannot be returned under any circumstances, if TWIN TECHNOLOGY agrees to accept the return of any Products (other than for the purpose set out in Clause 10 above) or agrees to carry out repairs to other products which have not been purchased from TWIN TECHNOLOGY or agrees to repair Products which are out of warranty the Customer shall not send the same to TWIN TECHNOLOGY unless they are accompanied by an RMA number previously advised by TWIN TECHNOLOGY's customer services department and a copy of the relevant sales invoice and are sent in their original packaging.

11.2 The Customer shall notify TWIN TECHNOLOGY within 5 working days of any delivery discrepancies, other than for the purposes set out in Clause 10. If TWIN TECHNOLOGY issues a returns number (RMA), Products must be returned to TWIN TECHNOLOGY within 5 working days of the date thereof.

11.3 If TWIN TECHNOLOGY has agreed to carry out repairs or to replace Products (or any parts thereof) other than for the purpose set out in Clause 10 above the Customer irrevocably authorises TWIN TECHNOLOGY to carry out such repairs or provide such replacements as shall place the Products in proper working order.

11.4 TWIN TECHNOLOGY shall accept no liability for any damage to or loss in transit of Products returned to TWIN TECHNOLOGY whether under this Clause or under Clause 10 above unless TWIN TECHNOLOGY collects the Products using its own carrier.

11.5 If TWIN TECHNOLOGY has agreed to accept the return of Products, other than for the purposes set out in Clause 10 above or for the purpose of carrying out any other repair or replacement, the Products must be returned in their original packaging and in a clean resalable condition, and will be subject to a re-stocking fee at TWIN TECHNOLOGY's discretion, failing which TWIN TECHNOLOGY will refuse to accept the same and the Customer shall remain liable for the price thereof.

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11.6 Details of TWIN TECHNOLOGY's returns process and terms can be found on [www.twintechnology.co.uk](http://www.twintechnology.co.uk) and Customer agrees to comply with this process and abide to the terms when returning any Product to TWIN TECHNOLOGY.

## 12. INSOLVENCY OF CUSTOMER

### 12.1 If:

12.1.1 the Customer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation otherwise than for the purposes of a solvent amalgamation or solvent reconstruction;

12.1.2 an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer; or

12.1.3 the Customer ceases or threatens to cease carrying on business; or

12.1.4 TWIN TECHNOLOGY reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly; then upon the happening of any of the above, without prejudice to any other right or remedy available to TWIN TECHNOLOGY, TWIN TECHNOLOGY shall be entitled to cancel the Contract and/or suspend any further deliveries or services under the Contract without any liability to the Customer and if the Products have been delivered and not paid for then the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary. Twin Technology reserves the right to "retain title" (ROT) of all goods until paid for in full.

## 13. EXPORT RESTRICTIONS

13.1 If Customer delivers the Products to its customer who may use the Products outside the United States or the European Union or EFTA countries, Customer acknowledges and shall advise its customer that some Products are controlled for export by the U.S. Department of Commerce or by EU/EFTA member state bodies and such Products may require authorisation prior to export. Customer agrees that it will not export, reexport, or otherwise distribute Products, or direct products thereof, in violation of any export control laws or regulations of the United States or any EU/EFTA TWIN TECHNOLOGY Ltd Terms & Conditions of Sale

member state. Customer warrants that it will not export or re-export any Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless Customer has obtained prior approval from the U.S. Department of Commerce or any other competent government agency. Customer further warrants that it will not export or re-export, directly or indirectly, any Products to embargoed countries or sell Products to companies or individuals listed on the Denied Persons List published by the U.S. Department of Commerce.

13.2 These restrictions change from time to time. If the Customer has any questions regarding its obligations under USA export regulations the Customer should contact the Bureau of Export Administration, United States Department of Commerce, Office of Export Licensing, Washington DC, USA (202) 377 4811 or the local United States Consulate.

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13.3 Upon request the Customer agrees to confirm in writing its intention to comply with applicable export and restricted user and uses regulations, by signing up to the terms in TWIN TECHNOLOGY's reseller application form.

#### 14. CONFIGURATION AND OTHER SERVICES

14.1 If agreed in any particular case TWIN TECHNOLOGY will provide configuration Services to Customer. Configuration Services will be at the price agreed at the time the order is accepted. The Customer shall be solely responsible for the accuracy of its order, the specification of the components and their configuration and for ensuring that the configured product specified is satisfactory for the purposes for which it is required including without limit that it has sufficient overall functionality, and will support, be compatible and interoperable with any hardware, software or middleware with which it is intended to operate.

14.2 Configuration Services will have a warranty of 14 days from the date of shipment to the Customer. TWIN TECHNOLOGY's sole liability (and the Customer's sole remedy against TWIN TECHNOLOGY) in respect of any defective Services for which TWIN TECHNOLOGY is responsible shall be the repair by TWIN TECHNOLOGY or at TWIN TECHNOLOGY's option replacement of the Product on which the Services have been performed. (If any alleged defect shall be attributable to defect in Product the provisions of Clause 10 shall apply). Claims in respect of defective Services must be made within 21 days of the date of delivery of the configured Product.

14.3 TWIN TECHNOLOGY may offer other Services to Customer including direct fulfilment and billing, installation and support services, storage and consolidation, and other logistics services. Such Services will be provided under these Conditions in addition to specific terms agreed upon in writing with Customer.

#### 15. MISCELLANEOUS

15.1 Customer is not allowed for any purpose whatsoever to use TWIN TECHNOLOGY's logos and trade marks without TWIN TECHNOLOGY's prior written approval from an Authorised Representative.

#### 16. CONFIDENTIALITY OF INFORMATION AND DATA POLICY

16.1 Definitions which apply to Clause 16, 17, 18 and 19 of these Terms:

16.1.1 "Consent" has the meaning given in the GDPR;

16.1.2 "Data Controller" means 'controller', as defined in the GDPR;

16.1.3 "Data Processor" means 'processor', as defined in the GDPR;

16.1.4 "International Organisation" has the meaning given in the GDPR;

16.1.5 "Processing" has the meaning given in the GDPR;

16.1.6 "Pseudonymisation" has the meaning given in the GDPR;

16.1.7 "Third Country" a country outside the European Economic Area (EEA)

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## 16.2 CONFIDENTIALITY

### 16.2.1 TWIN TECHNOLOGY undertakes:

16.2.1.1 To treat as confidential all information and data which may be derived from or be obtained in the course of the agreement or which may come into the possession of TWIN TECHNOLOGY (or their employees or agents) as a result or in connection with the agreement; and provide all necessary precautions to ensure that all such information is treated as confidential.

16.2.1.2 to ensure that TWIN TECHNOLOGY, (including their employees and/or agents) are aware of and adhere to the provisions of the Data Protection Act 1998, and the incoming General Data Protection Regulation 2018, and that any personal information obtained from the Customer shall not be disclosed, stored, used or communicated in any unlawful manner; and

16.2.1.3 to indemnify the Customer against any such loss arising, caused by any action, authorised or unauthorised, taken by TWIN TECHNOLOGY, its employees or agents.

16.3 Both parties undertake that each shall not at any time during this agreement, and for a period of [5] years after termination of this agreement, disclose to any person any Input Material (in the case of TWIN TECHNOLOGY), Pre-existing Material (in the case of the Customer), technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature or any other confidential information concerning the disclosing party's business or its products which the receiving party may obtain in connection with entering into this agreement, except as is permitted by clause 16.3.

### 16.4 Both parties may disclose Confidential Information:

16.4.1 to its employees, agents, consultants or subcontractors (and in the case of TWIN TECHNOLOGY, TWIN TECHNOLOGY's Team) as need to know such information for the purpose of discharging its obligations under this agreement. The party in receipt of such information shall ensure that its employees, agents, consultants or subcontractors to whom it discloses the Confidential Information comply with this clause 16; and

16.4.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

16.5 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under this agreement.

16.6 All materials, equipment and tools, drawings, specifications and data supplied by one party to the other shall, at all times, be and remain the exclusive property of the party supplying such materials, equipment and tools, drawings, specifications and data, but shall be held by the receiving party in safe custody at its own risk and maintained and kept in good condition by that party until returned to the supplying party and shall not be disposed of or used other than in accordance with the any written instruction or authorisation.

## 17. DATA PROCESSING

17.1 This clause shall only apply where TWIN TECHNOLOGY is Processing data on behalf of the Customer or its beneficiaries who are to benefit from the Services. For the purposes of this clause, the following definitions shall apply, where the Customer is the Data Controller and TWIN TECHNOLOGY is the Data Processor.

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17.2 The Data Processor shall not engage another Data Processor without prior specific or general written authorisation of the Data Controller. In the case of general written authorisation, the Data Processor shall inform the Data Controller of any intended changes concerning the addition or replacement of other Data Processors, thereby giving the Data Controller the opportunity to object to such changes.

17.3 The Data Processor shall:

(a) act only on the documented instructions of the Data Controller as set out in this Agreement, including with regard to transfers of personal data to a third country or an International Organisation with a presence in a third country, unless required to do so by Union or Member State law to which the Data Processor is subject; in such a case, the Data Processor shall inform the Data Controller of that legal requirement before Processing, unless that law prohibits disclosure of such information on important grounds of public interest;

(b) ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

(c) shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:

(i) the Pseudonymisation and encryption of personal data;

(ii) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services;

(iii) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

(iv) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing.

In assessing the appropriate level of security, account shall be taken in particular of the risks that are presented by Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed;

(d) respect the conditions referred to in paragraphs 17.3 and 17.5 for engaging another Data Processor;

(e) taking into account the nature of the Processing, assist the Data Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Data Controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR (rights of the data subject);

(f) assist the Data Controller in ensuring compliance with the obligations pursuant to clause 1.3(c) (Articles 32), Articles 33 (notification of data breaches the supervisory authority), 34 (communication of a personal data breach to the data subject), 35 (data protection impact assessment) and 36 (prior consultation with the supervisory authority), taking into account the nature of the Processing and the information available to the Data Processor;

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(g) at the choice of the Data Controller, delete or return all the personal data to the Data Controller after the end of the provision of services relating to Processing, and delete existing copies unless Union or Member State law requires storage of the personal data;

(h) make available to the Data Controller all information necessary to demonstrate compliance with the obligations laid down in this clause 17.3(h) and allow for and contribute to audits, including inspections, conducted by the Data Controller or another auditor mandated by the Data Controller.

(i) With regard to clause (h) the Data Processor shall immediately inform the Data Controller if, in its opinion, an instruction infringes the GDPR or other Union or Member State data protection provisions.

17.4 Where a Data Processor engages another Data Processor for carrying out specific Processing activities on behalf of the Data Controller, the same data protection obligations as set out in the contract or other legal act between the Data Controller and the Data Processor as referred to in clause 17.4 shall be imposed on that other Data Processor by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the Processing will meet the requirements of the GDPR. Where that other Data Processor fails to fulfil its data protection obligations, the initial Data Processor shall remain fully liable to the Data Controller for the performance of that other Data Processor's obligations.

## 18. INTERNATIONAL TRANSFERS

18.1 Any transfer of personal data which are undergoing Processing or are intended for Processing after transfer to a third country or to an International Organisation shall take place only if, subject to the other relevant provisions of the GDPR, the conditions laid down in Chapter V of the GDPR (transfers of personal data to third countries or International Organisations) are complied with by the Data Controller and Data Processor, including for onward transfers of personal data from the third country or an International Organisation to another third country or to another International Organisation.

18.2 A transfer of personal data to a third country or an International Organisation may take place where the EU Commission has decided that the third country, a territory or one or more specified sectors within that third country, or the International Organisation in question, ensures an adequate level of protection.

18.3 In the absence of a decision pursuant to clause 18.2, a Data Controller or Data Processor may transfer personal data to a third country or an International Organisation only if the Data Controller or Data Processor has provided appropriate safeguards and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

18.4 The appropriate safeguards referred to in clause 18.3 may be provided for, without requiring any specific authorisation from a supervisory authority, by:

(a) a legally binding and enforceable instrument between public authorities or bodies;

(b) binding corporate rules in accordance with Article 47;

(c) standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2);

(d) standard data protection clauses adopted by a supervisory authority and approved by the Gresham House, 7th Floor, 53 Clarendon Road, Watford, Hertfordshire, WD17 1LA

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Commission pursuant to the examination procedure referred to in Article 93(2);

(e) an approved code of conduct pursuant to Article 40 together with binding and enforceable commitments of the Data Controller or Data Processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or

(f) an approved certification mechanism pursuant to Article 42, together with binding and enforceable commitments of the Data Controller or Data Processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights.

18.5 Subject to the authorisation from the competent supervisory authority, the appropriate safeguards referred to in clause 18.4 may also be provided for, in particular, by:

(a) contractual clauses between the Data Controller or Data Processor and the Data Controller, Data Processor or the recipient of the personal data in the third country or International Organisation; or

(b) provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights

## 19. DATA PROTECTION INDEMNITIES

19.1 Subject to clause 19.3, the Data Controller shall indemnify the Data Processor in respect of any claim for material damage or non-material damage from a data subject arising as a result of a breach of the General Data Protection Regulation ("Damage");

19.2 Subject to clause 19.3, the Data Processor shall indemnify the Data Controller in respect of any claim for Damage in the event that the Data Processor either:-

19.2.1 is evidenced not to have complied with its obligations as a Data Processor under the General Data Protection Regulation; or

19.2.2 has acted outside of or contrary to the lawful instructions of the Data Controller.

19.3 Where liability arises under clauses 19.1 and 19.2, a party shall not be liable in the event that it can evidence that it is not responsible in any way for such liability.

19.4 In the event that both the Data Controller and the Data Processor are, under clauses 19.2 and 19.3, responsible for any Damage, the Data Controller and the Data Processor agree that they shall be held jointly and severally liable for all such liability arising as a result of the Damage.

19.5 Where either party undertakes full payment of compensation granted under clause 19.4, that party shall be entitled to claim compensation from the other party in a share representative of the other party's responsibility for the Damage, such entitlement to be established by the courts of competent jurisdiction, as described elsewhere in this agreement and each party shall indemnify the other in respect of its share of the Damage.

## 20. CUSTOMER IDENTIFICATION

20.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the Gresham House, 7th Floor, 53 Clarendon Road, Watford, Hertfordshire, WD17 1LA

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party giving notice.

20.2 No waiver by TWIN TECHNOLOGY of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

20.3 If any provision of these Conditions is held by any authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.

20.4 The Contracts shall be governed by the laws of England and the Customer submits to the exclusive jurisdiction of the English Courts.

Signed:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_.

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