Terms and Conditions of Sale of Equipment, Software and Services

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COOLSPIRiT™

www.coolspirit.co.uk

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Part 1: *This part applies to all customers*

1. Interpretation

The definitions and rules of interpretation in this condition apply in these conditions.

1.1 Definitions:

Acceptance of Order	a written acceptance of order issued by COOLSPIRiT.
Business Day	any day, except a Saturday, Sunday or a bank holiday in England.
Contract	the contract between COOLSPIRiT and the Customer for the supply of Equipment, Software and Services, or any of them, in accordance with these conditions (comprising Part 1, Part 2, Part 3, Part 4 and Part 5).
Contract Cover Sheet	the contract cover sheet (if any) to which these terms and conditions of sale of equipment, software and services are attached.
COOLSPIRiT's Project Manager	COOLSPIRiT's manager for the supply of the Services, appointed in accordance with condition 6.1.
Customer	the person, firm or company named on, as appropriate, the Contract Cover Sheet or Acceptance of Order.
Customer's Project Manager	the Customer's manager for the receipt of the Services appointed in accordance with condition 6.2.
Deliverables	as defined in Part 3.
End User Agreement	an end user licence agreement between the Customer and the owner of Intellectual Property Rights in the software concerned ("Owner") in such form as the Owner may prescribe from time to time.
Equipment	the equipment agreed in the Contract to be purchased by the Customer from COOLSPIRiT (including without limitation any part or parts of it).
Equipment Software	any operating system installed on the Equipment.
GUARDiAN CASP Support Services	the services more particularly described in the GUARDiAN CASP & Managed Service Guide.

GUARDiAN CASP Support Services Guide	the latest version of COOLSPIRiT's document entitled "GUARDiAN Support Guide" attached to the Contract or otherwise provided to the Customer.
GUARDiAN Managed Services	the services more particularly described in the GUARDiAN Managed Services Guide.
GUARDiAN Managed Services Guide	the latest version of COOLSPIRiT's document entitled "GUARDiAN Managed Service Guide" attached to the Contract or otherwise provided to the Customer.
Initial Term	the period described as 'Initial Term' in the Contract Cover Sheet, such period to commence on the Service Start Date.
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Part 1	Part 1 (the part that applies to all Customers) of these terms and conditions for the sale of equipment, software and services (or any of them).
Part 2	Part 2 (the part that applies to a Customer's purchase of Equipment or Software, or both) of these terms and conditions for the sale of equipment, software and services.
Part 3	Part 3 (the part that applies to a Customer's purchase of Professional Services) of these terms and conditions for the sale of equipment, software and services.
Part 4	Part 4 (the part that applies to a Customer's purchase of GUARDiAN CASP Support Services) of these terms and conditions for the sale of equipment, software and services.
Part 5	Part 5 (the part that applies to a Customer's purchase of GUARDiAN Managed Services) of these terms and conditions for the sale of equipment, software and services.

Professional Services	the services more particularly described in the Statement of Work.
Services	as appropriate, the Professional Services, GUARDiAN CASP Support Services and GUARDiAN Managed Services (or all of them).
Service Start Date	means: (a) in the case of the GUARDiAN CASP Support Services, the date defined as "Support Services Start Date" in condition 2.1 of Part 4; and (b) in the case of the GUARDiAN Managed Services, the date defined as "Managed Services Start Date" in condition 3.1 of Part 5.
Statement of Work	the latest version of the document entitled "Statement of Work" attached to the Contract or otherwise provided to the Customer.
Software	the software in object code form agreed in the Contract to be 'purchased' by the Customer from COOLSPIRiT.
VAT	value added tax chargeable under English law for the time being and any similar additional tax.
Work	the work described in a Statement of Work.

1.2 Condition, Schedule and paragraph headings shall not affect the interpretation of the Contract.

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

1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.

1.8 A reference to **writing** or **written** includes faxes and email.

1.9 References to "Parts" are to the parts of the Contract and references to "conditions" are to conditions of the relevant Part.

2. Application of Conditions

2.1 These conditions shall:

2.1.1 apply to and be incorporated in the Contract; and

2.1.2 prevail over any inconsistent terms or conditions contained in or referred to in the Customer's purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.

2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on COOLSPIRiT unless in writing and signed by a duly authorised representative of COOLSPIRiT.

3. Basis of Sale

3.1 Any quotation is valid for a period of 30 days only, and COOLSPIRiT may withdraw it at any time by notice to the Customer.

3.2 Each order or acceptance of a quotation for Equipment, Software and Services, or any of them, by the Customer shall be deemed to be an offer by the Customer subject to these conditions. The Customer shall ensure that any order is complete and accurate.

3.3 A binding contract shall not come into existence between COOLSPIRiT and the Customer unless and until:

3.3.1 COOLSPIRiT issues an Acceptance of Order to the Customer, or both parties sign the Contract Cover Sheet; or

3.3.2 COOLSPIRiT delivers the Equipment or Services, or both, or commences delivery of the Equipment or Services, or both, to the Customer,

(whichever occurs earlier).

3.4 Unless otherwise expressly provided in the Contract, no order which has been accepted by COOLSPIRiT may be cancelled by the Customer, except with the agreement in writing of COOLSPIRiT and provided that the Customer indemnifies COOLSPIRiT in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by COOLSPIRiT as a result of cancellation.

4. Terms of Services

4.1 The Services shall commence on the relevant Service Start Date.

4.2 Where the Services are Professional Services, the Professional Services shall automatically cease on COOLSPIRiT issuing a 'project closure acceptance form'.

4.3 Where the Services are GUARDiAN CASP Support Services or GUARDiAN Managed Services, unless terminated earlier in accordance with clause 18, those services shall continue for the Initial Term and shall automatically extend for successive 12- month periods **(Extended Term)** at the end of the Initial Term and at the end of each Extended Term. A party may give written notice to the other party, not later than 90 days before the end of the Initial Term or the relevant Extended Term, to terminate the GUARDiAN CASP Support Services or GUARDiAN Managed Services, or both, at the end of the Initial Term or the relevant Extended Term, as the case may be. For the avoidance of doubt, any existing direct debit mandate will automatically continue for each Extended Term. Accordingly, COOLSPIRiT shall continue to debit payments under such direct debit mandate.

5. Quantity and Description

5.1 The description of the Services shall be as set out in the Contract Cover Sheet. The quantity and description of the Equipment or Software, or both, shall be as set out in the Contract Cover Sheet or (if none is issued) on the Acceptance of Order or as otherwise confirmed by COOLSPIRiT in writing.

5.2 All samples, drawings, descriptive matter, specifications and advertising issued by COOLSPIRiT, and any descriptions or illustrations contained in COOLSPIRiT's catalogues or brochures are issued or published for illustrative purposes only and they do not form part of the Contract.

5.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by COOLSPIRiT shall be subject to correction without any liability on the part of COOLSPIRiT.

5.4 COOLSPIRiT, or any third party manufacturer or rights owner concerned, reserves the right (but does not assume the obligation) to make any changes in the specification of the Equipment, Software and Services, or any of them, which are required to conform with any applicable legislation or, where the Equipment, Software or Services are to be supplied to the Customer's specification, which do not materially affect their quality or performance.

5.5 COOLSPIRiT's employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Equipment, Software or Services.

6. Management of Services

6.1 COOLSPIRiT shall appoint COOLSPIRiT's Project Manager who shall have authority to contractually bind COOLSPIRiT on all matters relating to the Services. COOLSPIRiT shall use reasonable endeavours to ensure that the same person acts as COOLSPIRiT's Project Manager throughout the supply of the Services, but may replace him or her from time to time where reasonably necessary in the interests of COOLSPIRiT's business.

6.2 The Customer shall appoint the Customer's Project Manager who shall have authority to contractually bind the Customer on all matters relating to the Services. The Customer shall use reasonable endeavours to ensure that the same person acts as the Customer's Project Manager throughout the receipt of the Services, but may replace him or her from time to time where reasonably necessary in the interests of the Customer's business.

7. Prices

7.1 The pricing provisions for the Equipment or Software, or both, are set out in Part 2.

7.2 The pricing provisions for the Services are set out in Part 3, Part 4 and Part 5 as appropriate.

7.3 All prices for Equipment or Software, or both, are exclusive of delivery, packaging, packing, shipping, carriage and insurance. All prices for Equipment, Software and Services, or any of them, are exclusive of VAT and other charges and duties.

7.4 All amounts stated or referred to in the Contract are exclusive of value added tax, which shall be added to COOLSPIRiT's invoice(s) at the appropriate rate.

8. Payment

8.1 Time for payment of the price shall be of the essence of the Contract.

8.2 If the Customer: fails to make payment in full on the due date of the whole of the balance of the price of the Equipment, Software and Services, or any of them; or fails to make any direct debit payment when due; then any outstanding amounts shall become immediately due and payable and, without prejudice to any other right or remedy available to COOLSPIRiT, COOLSPIRiT shall be entitled to:

8.2.1 terminate the Contract or suspend any further deliveries of Equipment, Software and Services, or any of them, (whether ordered under the same contract or not) to the Customer;

8.2.2 appropriate any payment made by the Customer to such of the Equipment, Software and Services, or any of them, (or the equipment, software and services, or any of them, supplied under any other contract between the Customer and COOLSPIRiT) as it thinks fit (despite any purported appropriation by the Customer);

8.2.3 charge interest on the amount outstanding from the due date to the date of receipt by COOLSPIRiT (whether or not after judgment), at the annual rate of 8% above the base rate from time to time of the Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment. COOLSPIRiT reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and

8.2.4 suspend all further delivery or supply of the Equipment, Software and Services, or any of them, until payment has been made in full and cleared funds.

8.3 All sums payable to COOLSPIRiT under the Contract shall become due immediately on its termination, despite any other provision of the Contract. This condition 8.3 is without prejudice to any right to claim for interest under the law, or any right under the Contract.

8.4 COOLSPIRiT may, without prejudice to any other rights it may have, set off any liability of the Customer to COOLSPIRiT against any liability of COOLSPIRiT to the Customer.

9. Delivery

9.1 COOLSPIRiT shall use its reasonable endeavours to deliver the Equipment, Software and Services, or any of them, on the date or dates specified in the Contract Cover Sheet or Acceptance of Order (or as otherwise confirmed by COOLSPIRiT in writing), but any such date is, or dates are, approximate only. If no dates are so specified, delivery shall be within a reasonable time of the date of the Contract. Time is not of the essence as to the delivery of the Equipment, Software and Services, or any of them, and COOLSPIRiT is not in any circumstances liable for any delay in delivery, however caused.

10. Warranty for Equipment

10.1 COOLSPIRiT does not manufacture its own equipment. COOLSPIRiT shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer of the Equipment to COOLSPIRiT.

10.2 Notwithstanding condition 10.1, COOLSPIRiT warrants to the Customer that on delivery the Equipment is free from defects of workmanship and materials. COOLSPIRiT undertakes (subject to the remainder of this condition 10), at its option, to repair, replace or refund Equipment (other than consumable items) which is found to be in breach of the foregoing warranty. Such repair or replacement constitutes the Customer's sole and exclusive remedy for any breach of the warranty in this condition 10.2.

10.3 COOLSPIRiT shall not in any circumstances be liable for a breach of the warranty contained in condition 10.2 unless:

10.3.1 the Customer gives written notice of the defect to COOLSPIRiT within seven days of the time when the Customer discovers or ought to have discovered the defect; and

10.3.2 after receiving the notice, COOLSPIRiT is given a reasonable opportunity of examining such Equipment and the Customer (if asked to do so by COOLSPIRiT) returns such Equipment to COOLSPIRiT's place of business at the COOLSPIRiT's cost for the examination to take place there.

10.4 COOLSPIRiT shall not in any circumstances be liable for a breach of the warranty in condition 10.2 if:

10.4.1 the Customer makes any further use of Equipment in respect of which it has given written notice under condition 10.3.1; or

10.4.2 the defect arises because the Customer failed to follow COOLSPIRiT's or the manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice; or

10.4.3 the Customer alters or repairs the relevant Equipment without the written consent of COOLSPIRiT.

10.5 COOLSPIRiT shall not in any circumstances be liable for any damage or defect to the Equipment caused by improper use of the Equipment or use outside its normal application.

11. Warranties for the Software and Equipment Software

11.1 The Intellectual Property Rights in the Software and Equipment Software are owned by third party owners.

11.2 COOLSPIRiT does not make, give or by any act or omission intend to give rise to any licence, promise, warranty, guarantee, indemnity, representation, agreement, arrangement or binding right, remedy or obligation (howsoever arising under any legal theory) concerning the Software or Equipment Software.

11.3 The Customer's obligations and rights in respect of the Software and Equipment Software are set out exclusively in the End User Agreement or other rights and restrictions referred to in condition 16.4.4.

12. Warranties for the Services

12.1 The Customer warrants, represents and undertakes that:

12.1.1 it has the authority to grant any rights to be granted to COOLSPIRiT under the Contract;

12.1.2 it owns or has obtained valid licences, consents, permissions and rights to use, and where necessary to license to COOLSPIRiT, any materials reasonably necessary for the fulfilment of all its obligations under the Contract, including any third-party licences and consents in respect of any software used by the Customer; and

12.1.3 COOLSPIRiT's possession or use, or both, in accordance with the Contract of any software or materials (including third-party software or materials supplied by the Customer to COOLSPIRiT) shall not cause COOLSPIRiT to infringe the rights, including any Intellectual Property Rights, of any third party.

12.2 COOLSPIRiT warrants to the Customer that the relevant Services will be performed with all reasonable skill and care; and

12.2.1 the Professional Services will be performed substantially in accordance with any written specification agreed by COOLSPIRiT;

12.2.2 the GUARDiAN CASP Support Services will be performed substantially in accordance with the GUARDiAN CASP Support Services Guide; and

12.2.3 the GUARDiAN Managed Service will be performed substantially in accordance with the GUARDiAN Managed Service Guide;

12.3 The warranty in condition 12.2 shall not apply to the extent of any non-conformance is caused by use of the Services contrary to COOLSPIRiT's instructions.

12.4 If a Service does not conform with the warranty in condition 12.2, COOLSPIRiT shall, at its expense, use all reasonable commercial endeavours to correct any such non-conformance, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warranty in condition 12.2.

12.5 Notwithstanding the foregoing, COOLSPIRiT does not warrant that the Customer's use of the GUARDiAN CASP Support Services or GUARDiAN Managed Service shall be uninterrupted or error-free.

13. Cutomer's Obligations in Relation to the Services

13.1 The Customer shall:

13.1.1 provide COOLSPIRiT with:

13.1.1.1 all necessary co-operation in relation to the Contract; and

13.1.1.2 all necessary access to such information, documents and staff as may be reasonably required by COOLSPIRiT,

in order to provide the Services;

13.1.2 comply with all applicable laws and regulations with respect to its activities under the Contract; and

13.1.3 carry out all other Customer responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, COOLSPIRiT may adjust any timetable or delivery schedule set out in the Contract as reasonably necessary.

14. Remedies

14.1 If COOLSPIRiT's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer (other than by reason of a Force Majeure Event under condition 20), the Customer shall in all circumstances be liable to pay to COOLSPIRiT all reasonable costs, charges or losses sustained by it as a result, subject to COOLSPIRiT notifying the Customer in writing of any such claim it might have against the Customer in this respect.

15. Limitation of Liability

15.1 The following provisions set out the entire financial liability of COOLSPIRiT (including (without limitation) any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

15.1.1 any breach of the Contract howsoever arising;

15.1.2 any use made by the Customer of the Equipment, Software, Services and Deliverables, or any part of them; and

15.1.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including (without limitation) negligence) arising out of or in connection with the Contract.

15.2 The Customer assumes sole responsibility for results obtained from the use of the Services, and for conclusions drawn from such use. COOLSPIRiT shall have no liability for any damage caused by errors or omissions in any materials, information, instructions or scripts provided to COOLSPIRiT by the Customer in connection with the Services, or any actions taken by COOLSPIRiT at the Customer's direction.

15.3 Except as otherwise expressly set out in the Contract, all warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law.

15.4 Nothing in these conditions excludes or limits the liability of COOLSPIRiT for:

15.4.1 death or personal injury caused by COOLSPIRiT's negligence; or

15.4.2 fraud or fraudulent misrepresentation; or

15.4.3 for any matter for which it would be unlawful to exclude or limit COOLSPIRiT's liability.

15.5 Subject to condition 15.3 and condition 15.4:

15.5.1 COOLSPIRiT shall not in any circumstances be liable, whether in tort (including (without limitation) for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for the following types of losses (in each case whether direct or indirect):

15.5.1.1 loss of profits; or

15.5.1.2 loss of business; or

15.5.1.3 depletion of goodwill or similar losses; or

15.5.1.4 loss of anticipated savings; or

15.5.1.5 loss of goods; or

15.5.1.6 loss of contract; or

15.5.1.7 loss of use; or

15.5.1.8 loss or corruption of data or information; or

any special, indirect, consequential or pure economic losses, costs, damages, charges or expenses.

15.5.2 COOLSPIRiT's total liability in contract, tort (including (without limitation) negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to £10,000,000.

16. Intellectual Property Rights

16.1 If COOLSPIRiT supplies the Services in accordance with a specification submitted or prepared by the Customer or any other material or information provided by the Customer, the Customer shall indemnify and keep indemnified COOLSPIRiT on demand against all losses, damages, costs, claims, demands, liabilities and expenses (including (without limitation) consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by COOLSPIRiT in connection with, or paid or agreed to be paid by COOLSPIRiT in settlement of, any claim for infringement of any third party Intellectual Property Rights which results from COOLSPIRiT's use of the Customer's specification or such other material or information. The indemnity shall apply whether or not the Customer has been negligent or at fault and does not limit any further compensation rights of COOLSPIRiT.

16.2 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Equipment, Software and Services, or any of them, are and shall remain the sole property of COOLSPIRiT or (as the case may be) third party owners. The Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.

16.3 COOLSPIRiT shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of COOLSPIRiT.

16.4 In relation to the Software or Equipment Software, or both:

16.4.1 all Intellectual Property Rights in the software are owned by a third party owner;

16.4.2 the Customer acknowledges that it is buying only the media (if any) on which the software is recorded and the accompanying user manuals;

16.4.3 nothing contained in these conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or Equipment Software, or both, or user manuals; and

16.4.4 the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software or Equipment Software, or both, and user manuals, and shall comply with all licence contracts, terms of use and registration requirements relating to them.

16.5 Without prejudice to condition 16.4.4, the Customer shall comply at all times with its obligations under and in connection with each End User Agreement. The Customer shall sign and return the End User Agreement to COOLSPIRiT within seven days of installation of the software, unless the licence has been supplied on a "shrink-wrap" or "click-wrap" basis.

16.6 The Customer shall indemnify and keep indemnified COOLSPIRiT on demand against all losses, damages, costs, claims, demands, liabilities and expenses (including (without limitation) consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by COOLSPIRiT in connection with, or paid or agreed to be paid by COOLSPIRiT in settlement of a claim for, any breach or alleged breach by the Customer of condition 16.5.

16.7 In relation to Intellectual Property Rights in the Deliverables, COOLSPIRiT licenses all such rights to the Customer free of charge and on a non-exclusive, non-transferable and worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables as is envisaged by the parties. If COOLSPIRiT terminates the Contract under condition 18.1, this licence will automatically terminate.

16.8 The Customer grants to COOLSPIRiT a revocable, sub-licensable, non-transferable, non-exclusive, royalty-free, worldwide licence for the term of the Contract to use, exploit, copy, reproduce, manufacture, sub-license, modify, improve, enhance and make derivative works of the Customer's Intellectual Property Rights solely to the extent necessary to enable COOLSPIRiT to comply with its obligations under the Contract.

17. Confidentiality and COOLSPIRiT's Property

17.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by COOLSPIRiT or its agents, and any other confidential information concerning COOLSPIRiT's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to COOLSPIRiT, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.

17.2 All materials, equipment and tools, drawings, specifications and data supplied by COOLSPIRiT to the Customer shall at all times be and remain the exclusive property of COOLSPIRiT, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to COOLSPIRiT, and shall not be disposed of or used other than in accordance with COOLSPIRiT's written instructions or authorisation. All such materials, equipment and tools, drawings, specifications and data shall be returned to COOLSPIRiT on demand.

17.3 This condition 17 shall survive termination of the Contract, however arising.

18. Termination

18.1 Without prejudice to any other right or remedy to which the parties may be entitled, either party may terminate the Contract without liability to the other if:

18.1.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing to do so;

18.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

18.1.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

18.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;

18.1.5 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over that other party;

18.1.6 the holder of a qualifying floating charge over the assets of the other party has become entitled to appoint or has appointed an administrative receiver;

18.1.7 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of that other party;

18.1.8 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of that other party's assets and such attachment or process is not discharged within 14 days;

18.1.9 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 18.1.2 to condition 18.1.8 (inclusive);

18.1.10 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

18.1.11 there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

18.2 Without prejudice to any other right or remedy to which COOLSPIRiT may be entitled, COOLSPIRiT may terminate the Contract or suspend any further deliveries of the Equipment, Software and Services, or any of them, under the Contract without liability to the Customer if:

18.2.1 the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment; and

18.2.2 the ability of the Customer to accept delivery of the Equipment, Software and Services, or any of them, is delayed, hindered or prevented by circumstances beyond the Customer's reasonable control.

18.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Contract shall remain in full force and effect.

18.4 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

19. Non-Solicitation

19.1 The Customer shall not, without the prior written consent of COOLSPIRiT, at any time from the date of the Contract to the expiry of six months after the completion of the Services, solicit or entice away from COOLSPIRiT or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of COOLSPIRiT in the provision of Services to the Customer. The Customer shall not be in breach of this condition if it hires an employee or subcontractor of COOLSPIRiT as a result of a recruitment campaign not specifically targeted to any employees or subcontractors of COOLSPIRiT.

20. Force Majeure

20.1 COOLSPIRiT shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from any circumstance not within COOLSPIRiT's reasonable control including, without limitation:

20.1.1 acts of God, flood, drought, earthquake or other natural disaster;

20.1.2 epidemic, pandemic or a local or regional contagion (or a flare-up of the foregoing);

20.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

20.1.4 nuclear, chemical or biological contamination or sonic boom;

20.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

20.1.6 collapse of buildings, fire, explosion or accident; and

20.1.7 any labour or trade dispute, strikes, industrial action or lockouts; and

20.1.8 interruption or failure of utility service,

with such events being a **"Force Majeure Event"**.

21. Waiver

21.1 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22. Rights and Remedies

22.1 The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

23. Severance

23.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

24. Entire Agreement

24.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

24.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

24.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

24.4 Nothing in this condition shall limit or exclude any liability for fraud.

25. Assignment

25.1 The Customer shall not, without the prior written consent of COOLSPIRiT, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

25.2 COOLSPIRiT may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

26. Partnership or Agency

26.1 Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

27. Third Party Rights

27.1 No one other than a party to the Contract, their successors and permitted assignees, shall have any right to enforce any of its terms.

28. Notices

28.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

28.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

28.1.2 sent by fax to its main fax number.

28.2 Any notice shall be deemed to have been received:

28.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

28.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and

28.2.3 if sent by fax, at 9.00 am on the next Business Day after transmission.

28.3 This condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

29. Governing Law

29.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including without limitation disputes or claims) are governed by and construed in accordance with the law of England and Wales.

30. Jurisdiction

30.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

Part 2: *This part applies to a customer's purchase of equipment or software, or both*

1. Basis of Sale

1.1 The provisions in this Part 2 (which applies to the purchase of Equipment or Software, or both) supplement the provisions in Part 1 (which applies to all customers).

1.2 COOLSPIRiT may deliver the Equipment or Software, or both, by separate instalments. Each separate instalment shall be invoiced and paid for separately in accordance with the provisions of the applicable Contract. Each instalment shall be a separate contract and no cancellation or termination by either party of any one contract relating to an instalment shall entitle the Customer to repudiate or cancel any other contract or instalment.

2. Price

2.1 The price of the Equipment or Software, or both, shall be COOLSPIRiT's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in COOLSPIRiT's price list current at the date of the Contract.

2.2 The price of the Equipment or Software, or both, may be financed by a third party funder. However, COOLSPIRiT will not be party to the Customer's finance agreement with its funder. Therefore, as between COOLSPIRiT and the Customer, the Customer will be solely responsible to COOLSPIRiT for the full price of the Equipment or Software, or both.

3. Payment

3.1 Subject to any special terms agreed in writing between the Customer and COOLSPIRiT, COOLSPIRiT may invoice the Customer for the price of the Equipment or Software (or instalment thereof), or both, on or at any time after delivery of the Equipment or Software (or instalment thereof), or both, unless:

3.1.1 the Equipment or Software (or instalment thereof), or both, is to be collected by the Customer; or

3.1.2 the Customer fails to take delivery of the Equipment or Software (or instalment thereof), or both, when tendered by COOLSPIRiT,

and in either case COOLSPIRiT shall be entitled to invoice the Customer for the price at any time after COOLSPIRiT has notified the Customer that the Equipment or Software (or instalment thereof), or both, is ready for collection or had tendered delivery of the Equipment or Software (or instalment thereof), or both.

3.2 The Customer shall pay COOLSPIRiT's invoice within the payment period set out in the Contract Cover Sheet or Acceptance of Order (or as otherwise agreed by COOLSPIRiT in writing) ("Payment Period"), whether or not delivery has taken place or, in the case of Equipment, title in the Equipment has passed to the Customer. Where the price is being funded by a third party funder, the Customer shall use its best endeavours to procure payment of the price by the funder concerned within the Payment Period – including by (for example) signing all documents, consents and acknowledgements required by its funder to release payment in full to COOLSPIRiT. Where any documents, consents or acknowledgments are required to be signed after delivery, the Customer shall do so within 5-days of the date of delivery. However, for the avoidance of doubt, as between COOLSPIRiT and the Customer, payment of COOLSPIRiT's invoice within the Payment Period shall remain the sole responsibility of the Customer.

3.3 Without prejudice to its other rights under the Contract, if the Customer fails to make payment (or procure payment) in full on the due date, COOLSPIRiT shall be entitled to:

3.3.1 make a storage charge for any undelivered Equipment or Software, or both, at its current rates from time to time;

3.3.2 stop any Equipment or Software, or both, in transit; and

3.3.3 a general lien on all Equipment and property belonging to the Customer, exercisable in respect of all sums due from the Customer to COOLSPIRiT. COOLSPIRiT shall be entitled, on the expiry of 14 days' notice in writing, to dispose of such Equipment or property in such manner and at such price as it thinks fit and to apply the proceeds towards the amount outstanding

4. Delivery and Acceptance of Equipment

4.1 Where the price is being funded by a third party funder, COOLSPIRiT shall not deliver Equipment (or instalment thereof) until it has received an 'invitation to invoice' document or similar authorisation from the Customer's funder. However, for the avoidance of doubt notwithstanding such document or authorisation being issued, as between COOLSPIRiT and the Customer, payment of COOLSPIRiT's invoice shall remain the sole responsibility of the Customer.

4.2 The Equipment may be delivered by COOLSPIRiT in advance of the quoted delivery date (if any) on giving reasonable notice to the Customer.

4.3 Delivery shall be made during COOLSPIRiT's normal business hours (excluding bank or public holidays). COOLSPIRiT may levy additional charges for any deliveries made outside such hours at the Customer's request.

4.4 The Customer shall be responsible (at the Customer's cost) for preparing the delivery location (where this is somewhere other than COOLSPIRiT's premises) for the delivery of the Equipment and for the provision of all necessary access and facilities reasonably required to deliver the Equipment. If COOLSPIRiT is prevented from carrying out delivery on the specified date because no such preparation has been carried out, COOLSPIRiT may levy additional charges to recover its loss arising from this event.

4.5 The Customer shall be deemed to have accepted the Equipment when the Customer has had 3 days to inspect it after delivery and has not exercised in writing its right of rejection in accordance with the terms of the Contract.

4.6 Where COOLSPIRiT is responsible for delivery to the Customer's location, COOLSPIRiT shall be responsible for any damage, shortage or loss in transit, provided that the Customer notifies it to COOLSPIRiT (or its carrier, if applicable) within three days of delivery or the proposed delivery date of the Equipment and that the Equipment has been handled in accordance with COOLSPIRiT's stipulations. Any remedy under this paragraph shall be limited, at the option of COOLSPIRiT, to the making up of any proven shortfall in delivery or the replacement or repair of any Equipment which is proven to COOLSPIRiT's satisfaction to have been lost or damaged in transit. This shall be the Customer's sole and exclusive remedy in respect of such shortage, loss or damage.

5. Delivery of Software

5.1 Where the price is being funded by a third party funder, COOLSPIRiT shall not deliver the Software (or instalment thereof) until it has received an 'invitation to invoice' document or similar authorisation from the Customer's funder. However, for the avoidance of doubt notwithstanding such document or authorisation being issued, as between COOLSPIRiT and the Customer, payment of COOLSPIRiT's invoice shall remain the sole responsibility of the Customer.

5.2 COOLSPIRiT shall deliver the Software to the Customer using one of the following methods on or before the estimated delivery date set out in the Contract Cover Sheet or Acceptance of Order:

5.2.1 on a form of media (such as a CD or DVD); or

5.2.2 by making it available for download – in which case COOLSPIRiT shall notify the Customer when the Software is ready for download and shall provide reasonable instructions.

5.3 COOLSPIRiT shall notify the Customer of any activation codes or licence keys.

6. Failure to Collect, or Take Delivery of, Equipment or Software

6.1 If the Equipment or Software (or instalment thereof) is to be collected by the Customer from the Delivery Location, and the Customer fails to take delivery of the Equipment or Software (or instalment thereof) within three Business Days of COOLSPIRiT notifying the Customer that the Equipment or Software (or instalment thereof) is ready, then:

6.1.1 delivery of the Equipment or Software (or instalment thereof) shall be deemed to have been completed at 9.00am on the third Business Day after the day on which COOLSPIRiT notified the Customer that the Equipment or Software (or instalment thereof) is ready for collection; and

6.1.2 COOLSPIRiT shall store the Equipment or Software (or instalment thereof) until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

6.2 If the Equipment or Software (or instalment thereof) is to be delivered by COOLSPIRiT to the Delivery Location (where this is somewhere other than COOLSPIRiT's premises), and the Customer fails to take delivery of the Equipment or Software (or instalment thereof) when tendered for delivery, then:

6.2.1 delivery of the Equipment or Software (or instalment thereof) shall be deemed to have been completed at the time the Equipment or Software (or instalment thereof) is tendered for delivery (as evidenced by COOLSPIRiT or its delivery service); and

6.2.2 COOLSPIRiT shall store the Equipment or Software (or instalment thereof) until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

6.3 If ten Business Days after deemed delivery under paragraphs 6.1.1 or 6.2.1 the Customer has not taken or accepted actual delivery of them, COOLSPIRiT may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.

6.4 Where the price is being funded by a third party funder, the Customer shall notify the funder of deemed delivery under paragraphs 6.1.1 or 6.2.1 and use its best endeavours to procure payment of the price in full by the funder concerned in respect of the Equipment or Software, or both, deemed delivered – including by (for example) signing within 5-days of deemed delivery all documents, consents and acknowledgements required by its funder to release full payment to COOLSPIRiT. However, for the avoidance of doubt, as between COOLSPIRiT and the Customer, payment of COOLSPIRiT's invoice shall remain the sole responsibility of the Customer.

7. Support of Software and Equipment Software

7.1 COOLSPIRiT shall not provide technical support, maintenance or other services in connection with the Software or Equipment Software, other than GUARDiAN CASP Support Services or GUARDiAN Managed Services (where these have been purchased).

8. Risk and Property of Equipment

8.1 The Equipment shall be at the risk of COOLSPIRiT until delivery (or deemed delivery under paragraphs 6.1.1 or 6.2.1) to the Customer at the place of delivery specified in the Contract Cover Sheet or Acceptance of Order (or as otherwise confirmed by COOLSPIRiT in writing). COOLSPIRiT shall load or off-load the Equipment at the Customer's risk.

8.2 Ownership of the Equipment shall pass to the Customer on the later of completion of delivery (including (without limitation) loading and off-loading), or when COOLSPIRiT has received in full in cleared funds all sums due to it in respect of:

8.2.1 the Equipment; and

8.2.2 all other sums which are or which become due to COOLSPIRiT from the Customer on any account.

8.3 Until ownership of the Equipment has passed to the Customer under condition 10, the Customer shall:

8.3.1 hold the Equipment on a fiduciary basis as COOLSPIRiT's bailee;

8.3.2 store the Equipment (at no cost to COOLSPIRiT) in satisfactory conditions and separately from all the Customer's other equipment or that of a third party, so that it remains readily identifiable as COOLSPIRiT's property;

8.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and

8.3.4 keep the Equipment insured on COOLSPIRiT's behalf for its full price against all risks with a reputable insurer to the reasonable satisfaction of COOLSPIRiT, and hold the proceeds of such insurance on trust for COOLSPIRiT and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

8.4 The Customer's right to possession of the Equipment before ownership has passed to it shall terminate immediately if any of the circumstances set out in condition 18 of Part 1 arise or if the Customer encumbers or in any way charges the Equipment, or if the Customer fails to make any payment to COOLSPIRiT on the due date.

8.5 Until ownership of the Equipment is transferred to the Customer in accordance with condition 10, the Customer grants COOLSPIRiT, its agents and employees an irrevocable licence at any time to enter any premises where the Equipment is or may be stored in order to inspect it, or where the Customer's right to possession has terminated, to remove it. All costs incurred by COOLSPIRiT in repossessing the Equipment shall be borne by the Customer.

8.6 On termination of the Contract for any reason, COOLSPIRiT's (but not the Customer's) rights in this condition 8 shall remain in effect.

8.7 COOLSPIRiT may appropriate payments by the Customer to such Equipment as it thinks fit, notwithstanding any purported appropriation by the Customer to the contrary, and may make such appropriation at any time.

9. Equipment Software Licence

9.1 If COOLSPIRiT refers to a software licence in the Contract Cover Sheet or Acceptance of Order, the price of the Equipment includes the licence fee for the Customer's right to use the Equipment Software.

9.2 If the Customer is provided with any operating system software licence in respect of the Equipment Software, the Customer shall sign and return it to COOLSPIRiT within seven days of installation of the software, unless the licence has been supplied on a "shrink-wrap" or "click-wrap" basis.

9.3 If no software licence has been provided to the Customer, the Customer hereby accepts a non-exclusive, non-transferable licence to use the Equipment Software on the following conditions:

9.3.1 the Customer shall not copy (except to the extent permissible under applicable law which is not capable of exclusion by agreement) or for normal operation of the Equipment), reproduce, translate, adapt, vary or modify the software, nor communicate it to any third party, without COOLSPIRiT's prior written consent;

9.3.2 the Customer shall not use the Equipment Software on any equipment other than the Equipment, and shall not remove, adapt or otherwise tamper with any copyright notice, legend or logo which appears in or on the Equipment Software on the medium on which it resides;

9.3.3 such licence shall be terminable by either party on 28 days' written notice, provided that COOLSPIRiT terminates only if the continued use or possession of the Equipment Software by the Customer infringes the developer's or a third party's rights, or COOLSPIRiT is compelled to do so by law, or if the Customer has failed to comply with any term of the Contract; and

9.3.4 on or before the expiry of this licence, the Customer shall return to COOLSPIRiT all copies of the Equipment Software in its possession.

10. Remedies

10.1 COOLSPIRiT shall not in any circumstances be liable for any non-delivery of Equipment or Software, or both, (even if caused by COOLSPIRiT's negligence) unless the Customer notifies COOLSPIRiT in writing of the failure to deliver within three days after the scheduled delivery date.

10.2 Any liability of COOLSPIRiT for non-delivery of the Equipment or Software, or both, shall in all circumstances be limited to replacing the Equipment or Software, or both, within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such Equipment or Software, or both.

Part 3: *This part applies to a customer's purchase of professional services*

1. Additional Definitions

Deliverables	all products and materials developed by COOLSPIRiT in relation to the Work in any media.

2. Basis of Sale

2.1 The provisions in this Part 3 (which applies to the purchase of Professional Services) supplement the provisions in Part 1 (which applies to all customers).

3. Customer's Obligations

3.1 The Customer shall:

3.1.1 co-operate with COOLSPIRiT in all matters relating to the Work;

3.1.2 provide in a timely manner such access to the Customer's premises and data, and such office accommodation and other facilities, as is requested by COOLSPIRiT;

3.1.3 provide in a timely manner such information as COOLSPIRiT may request, and ensure that such information is accurate in all material respects; and

3.1.4 be responsible (at its own cost) for preparing the relevant premises for the supply of the Professional Services.

4. Change Control

4.1 The Customer's Project Manager and COOLSPIRiT's Project Manager shall meet regularly to discuss matters relating to the Work. If either party wishes to change the scope of the Professional Services or the Statement of Work, it shall submit details of the requested change to the other in writing.

4.2 If either party requests a change to the scope or execution of the Professional Services or Statement of Work, COOLSPIRiT shall, within a reasonable time, provide a written estimate to the Customer of:

4.2.1 the likely time required to implement the change;

4.2.2 any variations to COOLSPIRiT's charges arising from the change;

4.2.3 the likely effect of the change on the Professional Services and Statement of Work; and

4.2.4 any other impact of the change on the terms of the Contract.

4.3 If COOLSPIRiT requests a change to the scope of the Professional Services or Statement of Work, the Customer shall not unreasonably withhold or delay consent to it.

4.4 If the Customer wishes COOLSPIRiT to proceed with the change, COOLSPIRiT has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges, the Statement of Work and any other relevant terms of the Contract to take account of the change.

5. Price and Payment

5.1 Condition 5.2 shall apply if the Professional Services are to be provided on a time-and-materials basis. Condition 5.3 and condition 5.4 shall apply if the Professional Services are to be provided for a fixed price. The remainder of this condition 5 shall apply in either case.

5.2 Where the Professional Services are provided on a time-and-materials basis:

5.2.1 the charges payable for the Professional Services shall be calculated in accordance with COOLSPIRiT's standard daily fee rates as amended from time to time;

5.2.2 COOLSPIRiT's standard daily fee rates are calculated on the basis of an eight-hour day worked between 9.30 am and 5.00 pm on weekdays (excluding weekends and public holidays);

5.2.3 COOLSPIRiT shall be entitled to charge at an overtime rate of 50 percent of the normal rate for part days and for time worked by members of the project team outside the hours referred to in condition 5.2.2 on a pro-rata basis;

5.2.4 COOLSPIRiT shall ensure that all members of the project team complete time sheets recording time spent on the Work, and COOLSPIRiT shall use such time sheets to calculate the charges covered by each monthly invoice referred to in condition 5.2.5; and

5.2.5 COOLSPIRiT shall invoice the Customer on completion of the Professional Services. Any expenses, materials and third party services shall be invoiced by COOLSPIRiT. Each invoice shall set out the time spent by each member of the project team and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.

5.3 Where the Professional Services are provided for a fixed price, the total price for the Professional Services shall be the amount set out in the Contract Cover Sheet or otherwise confirmed by COOLSPIRiT in writing. The total price shall be paid to COOLSPIRiT in instalments as set out in the the Contract Cover Sheet or otherwise confirmed by COOLSPIRiT in writing (if any). Where no instalments are set out, the Customer shall pay the total price as one lump sum within 30-days of COOLSPIRiT's invoice delivered at anytime after the date of the Contract.

5.4 Any fixed price excludes:

5.4.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the project team in connection with the Professional Services, and the cost of any materials or services reasonably and properly provided by third parties required by COOLSPIRiT for the supply of the Professional Services. Such expenses, materials and third party services shall be invoiced by COOLSPIRiT at cost; and

5.4.2 VAT, which COOLSPIRiT shall add to its invoices at the appropriate rate.

5.5 The Customer shall pay each invoice submitted to it by COOLSPIRiT in full, and in cleared funds, within the payment period set out in the Contract Cover Sheet or as otherwise confirmed in writing by COOLSPIRiT.

Part 4: *This part applies to a customer's purchase of GUARDiAN CASP Support Services*

1. Basis of Sale

1.1 The provisions in this Part 4 (which applies to the purchase of GUARDiAN CASP Support Services) supplement the provisions in Part 1 (which applies to all customers).

2. GUARDiAN CASP Support Services

2.1 COOLSPIRiT shall provide the GUARDiAN CASP Support Services from the start date notified to the Customer (Support Services Start Date) until expiry or termination of the GUARDiAN CASP Support Services in accordance with the Contract.

2.2 Support in relation to the GUARDiAN CASP Support Services can be accessed by the Customer as described under the "Contacting Support" and "Submitting a Case" headings of the GUARDiAN CASP Support Services Guide.

2.3 The response times and resolution times set out in the GUARDiAN CASP Support Services Guide shall apply.

3. Price and Payment

3.1 The price for the GUARDiAN CASP Support Services shall be as set out in the Contract Cover Sheet or as otherwise confirmed in writing by COOLSPIRiT.

3.2 Subject to paragraph 3.3, the Customer shall pay each invoice submitted to it by COOLSPIRiT in full, and in cleared funds, within the payment period set out in the Contract Cover Sheet or as otherwise confirmed in writing by COOLSPIRiT.

3.3 Notwithstanding paragraph 3.2, the Customer may pay the price for the GUARDiAN CASP Support Services by direct debit in 12 equal instalments.

Part 5: *This part applies to a customer's purchase of GUARDiAN Managed Services*

1. Additional Definitions

Service Levels	the service levels (if any) set out in the GUARDiAN Managed Services Guide or as otherwise agreed by COOLSPIRiT in writing.

2. Basis of Sale

2.1 The provisions in this Part 5 (which applies to the purchase of GUARDiAN Managed Services) supplement the provisions in Part 1 (which applies to all customers).

3. Managed Service Provision

3.1 When COOLSPIRiT considers that the GUARDiAN Managed Services are ready for activation it shall notify the Customer of the anticipated start date (Managed Services Start Date). A prerequisite of activation of the GUARDiAN Managed Services shall be:

3.1.1 provision of the equipment and facilities described under the heading "Equipment and Facilities" in the GUARDiAN Managed Services Guide at the Customer's own cost; and

3.1.2 the prerequisites set out under the heading "Service Pre-requisites" of the GUARDiAN Managed Services Guide having been met in full.

3.2 COOLSPIRiT shall provide the GUARDiAN Managed Services from the Managed Services Start Date until expiry or termination of the GUARDiAN Managed Services in accordance with the Contract.

3.3 COOLSPIRiT shall perform its responsibilities set out under the heading "GUARDiAN's Responsibilities" in the GUARDiAN Managed Services Guide.

3.4 The Customer shall perform its responsibilities set out under the heading "Customer Responsibilities" in the GUARDiAN Managed Services Guide. Without prejudice to the foregoing, the Customer shall also provide the equipment and facilities described under the heading "Equipment and Facilities" in the GUARDiAN Managed Services Guide at its cost.

3.5 The Customer may request support in relation to the GUARDiAN Managed Services as described under the heading "GUARDiAN Managed Service" of the GUARDiAN Managed Services Guide.

3.6 The Service Levels shall apply with effect from the start of the first complete month occurring at least 30 days after the Managed Services Start Date.

4. Service Reviews

4.1 The Customer's Project Manager and COOLSPIRiT's Project Manager shall have regular monthly meetings (Monthly Meetings) to monitor and review the performance of the Managed Services. These meetings shall be minuted by COOLSPIRiT's Project Manager and copies of those minutes shall be circulated to, and approved by, both parties.

4.2 Before each Monthly Meeting, the Customer's Project Manager shall notify COOLSPIRiT's Project Manager, and vice versa, of any problems relating to the provision of the Managed Services for discussion at the Monthly Meeting. At each such meeting, the parties shall agree a plan to address such problems. Progress in implementing the plan shall be included in the agenda for the next Monthly Meeting.

5. Price and Payment

5.1 The price for the GUARDiAN Managed Services shall be as set out in the Contract Cover Sheet or as otherwise confirmed in writing by COOLSPIRiT.

5.2 Subject to paragraph 5.3, the Customer shall pay each invoice submitted to it by COOLSPIRiT in full, and in cleared funds, within the payment period set out in the Contract Cover Sheet or as otherwise confirmed in writing by COOLSPIRiT.

5.3 Notwithstanding paragraph 8.2, the Customer may pay the price for the GUARDiAN Managed Services by direct debit in 12 equal instalments.

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