

Terms of sale

CORVIA LIMITED (TRADING AS TICKETER) STANDARD TERMS & CONDITIONS

These terms will apply to each Buyer in respect of Hardware and Services provided by the Company under a Quotation accepted by the Buyer.

The Buyer's attention is in particular drawn to the provisions of condition 10.4.

1. Interpretation

1.1 The following definitions and rules of interpretation apply in these conditions ("**conditions**").

Buyer: the person, firm or company who accepts a Quotation.

Company: Corvia Limited, a company registered in England with number 0711600 trading as Ticketer.

Contract: the contract between the Company and the Buyer for the sale and purchase of the Hardware and Services constituted by the Buyer accepting a Quotation.

Hardware: the hardware specified in the relevant Quotation excluding the Software.

Quotation: a quotation for the sale of Hardware and/or services to the Buyer by the Company.

Services: the services specified in the relevant Quotation including the hosting of the Website.

Software: the software incorporated in the Hardware and the Portal as amended or upgraded from time to time.

Portal: the portal hosted by or on behalf of the Company.

1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these conditions.

2. Application of Terms

2.1 The acceptance in writing, including by email, of a Quotation by the Buyer or the acceptance by the Buyer of delivery of the Hardware will constitute a binding contract between the Buyer and the Company for the sale of the Hardware and the provision of the Services on the terms of the relevant Quotation.

2.2 The Contract will be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.3 Any quotation is valid for the period specified in the Quotation or, if not stated, 30 days provided that the Company has not previously withdrawn it.

2.4 If there is any conflict between the terms of the Quotation and these conditions, the terms of the Quotation will prevail.

3. Description

3.1 The quantity and description of the Hardware and Services will be as set out in the Company's quotation or acknowledgement of order.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Hardware described in them. They will not form part of the Contract and this is not a sale by sample.

4. Installation

4.1 Unless otherwise agreed in writing by the Company, the installation of the Hardware will take place at the Buyer's place of business.

4.2 The Buyer will provide the Company with all such information, facilities, access and other assistance as the Company may reasonably request in order to install the Hardware and provide the Services.

4.3 Any dates specified by the Company for installation of the Hardware are intended to be an estimate and time for delivery will not be made of the essence by notice. If no dates are so specified, installation will be within a reasonable time.

5. Provision Of The Services/ Licence

5.1 The Company will provide the Services with all reasonable care and skill and in accordance with the relevant Quotation and in accordance with any service level agreement annexed to or referred to in the Quotation.

5.2 The Company grants the Buyer a non-exclusive right to use the Software and/or the data, information and other content (**Content**) provided to the Buyer as part of the Hardware or via the Services for the term of the Contract.

5.3 In relation to the use of the Software:

(a) Use will be restricted to use in object code form for the purpose of processing the Buyer's data for its normal business purposes (which will not include allowing the use of the Software by, or for the benefit of, any person other than an employee of the Buyer).

(b) the Buyer may not use the Software other than as specified in clause 5.3(a) without the prior written consent of the Company.

(c) except as stated in this condition, the Buyer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part.

5.4 The Buyer may only use the Content for its own internal business purposes and may not provide the Content directly or indirectly to any other person.

5.5 The Buyer acknowledges that all Intellectual Property Rights in the Software and the Content belong to the Company or its licensors, and the Buyer will have no rights in or to the

Software and/or the Content other than the right to use it in accordance with the terms of this licence.

6. Risk/Title

6.1 The Hardware is at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Hardware will not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

- (a) the Hardware; and
- (b) the installation of the Hardware.

6.3 Until ownership of the Hardware has passed to the Buyer, the Buyer will:

- (a) hold the Hardware on a fiduciary basis as the Company's bailee;
- (b) store the Hardware (at no cost to the Company) separately from all other Hardware of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
- (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Hardware; and
- (d) maintain the Hardware in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer will produce the policy of insurance to the Company.

6.4 The Buyer may not resell the Hardware before ownership has passed to it.

6.5 The Buyer's right to possession of the Hardware before ownership has passed to it will terminate immediately if:

- (a) the Buyer has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision 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 documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the grant- ing of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
- (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

(c) the Buyer encumbers or in any way charges any of the Hardware.

6.6 The Company will be entitled to recover payment for the Hardware notwithstanding that ownership of any of the Hardware has not passed from the Company.

6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Hardware are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

6.8 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition will remain in effect.

7. Price

7.1 The price for the Hardware and Services will be the prices set out in the Quotation.

7.2 The price for the Hardware and the Services will be exclusive of any value added tax .

8. Payment

8.1 Subject to condition 8.4, payment of the price is due as specified in the Quotation or, if not specified, within 30 days of the date of invoice.

8.2 Time for payment will be of the essence.

8.3 No payment will be deemed to have been received until the Company has received cleared funds.

8.4 All payments payable to the Company under the Contract will become due immediately on its termination despite any other provision.

8.5 The Buyer will make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

9. Warranties

9.1 The Company warrants that (subject to the other provisions of these conditions) for a period of one year from the date of installation, the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1979.

9.2 The Company does not warrant:

(a) that the use of the Services will be uninterrupted or error free nor that any information provided is always accurate; in particular (but without limitation) calculation errors may occur when using location systems for example by local environmental conditions and/or incomplete or incorrect data; or

(b) the performance of the communication system (including, without limitation, the internet or a mobile phone network) used to transfer data from the Hardware to the Portal or used by the Buyer to access its data on the Portal.

9.3 The Company will not be liable for a breach of the warranty in condition 9.1 unless:

- (a) the Buyer gives written notice of the defect to the Company within 5 working days of the time when the Buyer discovers or ought to have discovered the defect; and
- (b) the Company is given a reasonable opportunity after receiving the notice of examining such Hardware.

9.4 The Company will not be liable for a breach of the warranty in condition 9.1 if:

- (a) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the setup, use or maintenance of the Hardware and/or Services; or
- (b) the Buyer damages the Hardware or alters or repairs the Hardware and/or Services without the written consent of the Company.

9.5 Subject to conditions 9.3 and 9.4, if any of the Hardware does not conform with the warranty in condition 9.1 the Company will at its option repair or replace such Hardware and/or Services (or the defective part) or refund the price of such Hardware and/or Services at the pro rata Contract rate provided that

- (a) if the Company so requests, the Buyer will, at its own cost, return the Hardware or the part of such Hardware which is defective to the Company ; and
- (b) The replacement Hardware may not be new but will be of reasonably satisfactory quality.

9.6 If the Company complies with condition 9.5 it will have no further liability for a breach of the warranty in condition 9.1 in respect of such Hardware and/or Services.

9.7 Any Hardware replaced will belong to the Company and any repaired or replacement Hardware will be guaranteed on these terms for the unexpired portion of the year's warranty period.

10. Limitation Of Liability

10.1 Subject to condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of these conditions;
- (b) any use made by the Buyer of any of the Hardware and Services;
- (c) any loss of or corruption of data; and
- (d) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (except for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence; or
- (b) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

(c) for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3:

(a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract will be limited to the aggregate price of the Hardware;

(b) the Company will not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract; and

(c) the Company will not be liable for any failure of the GPS signal used by the location system nor of the communication system (including, without limitation, the internet or a mobile phone network) used to transfer data from the Hardware to the Portal or used by the Buyer to access its data on the Portal.

11. SIM Cards

11.1 The Buyer is responsible for the provision of SIM cards required to operate the Services and all related maintenance of service and charges unless included within the Services.

11.2 The Buyer is responsible for the loss or theft and any consequent (including fraudulent and/or improper) use of a SIM card.

12. Suspension/Termination

12.1 The Contract will take effect from acceptance of the Quotation under Clause 2.1 or delivery of the Goods (whichever is the earlier) and will continue unless suspended or terminated under this condition.

12.2 The Company may suspend the Buyer's use of the Services if the Buyer is in material breach of the Contract including but not limited to a failure to pay any amount due by the due date.

12.3 Either party may terminate the Contract as follows:

(a) The Company may terminate the Contract by serving written notice of not less than 90 days on the Buyer such notice to expire at any time after the expiry of any initial fixed term specified in the Quotation; and

(b) The Buyer may terminate the Contract after the expiry of any initial fixed term specified in the Quotation by serving not less than twelve (12) months' prior written notice on the Company, such notice to expire on an anniversary of the payment date of the annual licence fee.

12.4 Either party may terminate the Contract immediately by serving written notice on the other if the other commits any material breach of these Terms which, if capable of remedy, is not remedied within 30 days of notice from that party specifying the breach and requiring its remedy.

12.5 The Company may terminate the Contract if the Buyer (being a company) becomes insolvent, is wound up, has an administrator or receiver appointed over its assets, makes any

voluntary arrangement with its creditors or go into liquidation or (being an individual or partnership) does anything analogous to any of these acts or events.

12.6 The provisions of Clauses 5, 6 and 10 will survive the termination of these conditions and continue in full force and effect.

13. Assignment

13.1 The Company may assign the Contract or any part of it to any person, firm or company.

13.2 The Buyer will not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

14. Force Majeure

No cause of action will arise if the discharge of any obligation is prevented or delayed, or accrual of any liability on the part of either party is caused, as the case may be, by any event beyond the reasonable control of that party including any of the following: act of God, governmental act, war, terrorism, fire, flood or other natural disaster, explosion or civil commotion, failure or interruption in information technology or telecommunications services, failure of a third party (including failure to supply data) and industrial action provided that, if the event in question continues for a continuous period in excess of six months, the Buyer will be entitled to give notice in writing to the Company to terminate the Contract.

15. General

15.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it will to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision will continue in full force and effect.

15.3 Any variation to these conditions and any representations about the Hardware and/or Services will have no effect unless expressly agreed in writing and signed by an authorised representative of the Company.

15.4 The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

15.5 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

15.6 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

15.7 The parties to the Contract do not intend that any term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

15.8 The formation, existence, construction, performance, validity and all aspects of the Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

16. Communications

16.1 All communications between the parties about the Contract will be in writing and delivered by hand or sent by pre-paid first class post or, other than in relation to notice to suspend or terminate the Contract, by email:

(a) (in case of communications to the Company) to its registered office or such changed address as will be notified to the Buyer by the Company or, in the case of email, to contracts@ticketer.co.uk ; or

(b) (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in the Quotation or such other address as will be notified to the Company by the Buyer.

16.2 Communications will be deemed to have been received:

(a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by email on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.