

Standard Terms & Conditions of Business

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions, the following words and expressions shall have the meaning set out below:

"Agreement" means the agreement between Nexus Fusion and the Customer for the sale of Goods and/or Services, comprising the Order and these Terms and Conditions;

"Charges" means the charges payable by the Customer for Goods and/or Services, as such charges are set out in each Order Form or are otherwise agreed with the Customer

"Non-Business Customer" an individual consumer as more particularly defined in clause 22;

"Customer" a company, partnership, firm, business, individual or other entity that places an Order with Nexus Fusion;

"Documentation" means the operating manuals, user instructions, technical literature and other related materials (if any) supplied to the Customer by Nexus Fusion for aiding the use and application of Goods and Services;

"Goods" means hardware, software, equipment or other items (or any of them or any part or parts of them) as set out in an Order Form (if applicable) and which shall be provided by Nexus Fusion (subject to and in accordance with the Agreement);

"Intellectual Property Rights" means all registered and unregistered copyright patents, design rights, database and compilation rights, marks (and related goodwill), trade secrets and other intellectual property rights, howsoever arising and in whatever media, and any applications for their protection or registration and all renewals and extensions anywhere in the world;

"Licence" means, in respect of any Software provided under the Agreement, the relevant third party owner or licensor's terms and conditions of use applicable to such Software;

"Licensor" means the relevant third party licensor of Software; "Order" means an order for Goods and/or Services placed by the Customer either by way of an Order Form or by way of a separate agreement between Nexus Fusion and the Customer; "Order Form" means Nexus Fusion's standard order form;

"Privacy Policy" means Nexus Fusion's privacy policy as published on Nexus Fusion's website and amended from time to time; "Software" means any software provided as part of Goods and/or Services and which is specified in the Order Form (if applicable), all in object code form only;

"Services" means the installation, support, managed or other services provided by Nexus Fusion;

"Nexus Fusion" means Nexus Fusion Limited (company number 10196686);

"Working Days" means a day (other than Saturday or Sunday) on which banks are open for business in the City of London. 1.2 In the event of any inconsistency or ambiguity between the Order and these Terms and Conditions the former shall prevail.

2. ORDER PROCEDURE

2.1 The Customer shall place an Order for the purchase of Goods and/or Services, by completing and signing an Order Form or any other form used by the Customer and submit that Order Form to Nexus Fusion for approval (by telephone, fax or email).

2.2 Nexus Fusion shall be entitled to accept or reject an Order in its discretion by notifying the Customer and wherever it is reasonably practicable to do so, shall notify the Customer as to whether an Order has been accepted no later than 5 Working Days following receipt of an Order.

2.3 Orders accepted by Nexus Fusion shall be binding on the Customer and may only be cancelled in accordance with the Agreement.

2.4 All Orders placed by the Customer are subject to the availability of Goods and/or Nexus Fusion's capability to perform the Services.

2.5 Requests by a Customer for cancellation of any Order or for rescheduling of deliveries will only be considered by Nexus Fusion if made in writing, and shall be subject to written acceptance by Nexus Fusion. Where Nexus Fusion agrees to cancel, or reschedule an Order at the request of the Customer, the Customer agrees to indemnify Nexus Fusion up to the total Order value for any direct costs arising out of such cancellation or rescheduling.

3. TERM

These Terms and Conditions shall apply to any Order which shall be for such period within which the Goods and/or Services are delivered or performed. If Nexus Fusion enters into an ongoing agreement for the delivery of Goods and/or Services such shall specify the duration of the agreement or shall otherwise be for an indefinite period.

4. CHARGES

4.1 Any catalogues, price lists or other advertising literature or material as used by Nexus Fusion are intended only as an indication to the price and range of Goods and Services available. No prices, descriptions or other contained in such materials shall be binding on Nexus Fusion.

4.2 All quoted or listed prices for Goods are based on the cost to Nexus Fusion of supplying the Goods to the Customer and. If, following acceptance by Nexus Fusion of the Order, and prior to the delivery of Goods at the Customer's site, the cost of such Goods to Nexus Fusion shall increase, Nexus Fusion shall be entitled to give written notice to the Customer of the increased price of such Goods, and the Customer shall have the right to cancel its Order for such Goods by giving written notice to Nexus Fusion within 5 Working Days. If the Customer does not cancel its Order within such period, the original Order shall continue to be binding on the Customer varied as to the price of the applicable Goods only.

4.3 All Charges are exclusive of any taxes, including any excise, sales, use, value added (VAD, withholding and similar taxes and duties. The Customer shall be liable for and shall pay all such applicable taxes at the prevailing rate.

4.4 Unless otherwise agreed, prices do not include delivery charges to the Customer' site or premises, and Nexus Fusion reserves the right to levy an additional charge for delivering the Goods to any specific destination advised by the Customer.

6. DEFECTS AND USE

6.1 Save as expressly provided, and save to the extent that the exclusion or restriction of liability may be prohibited by statute, Nexus Fusion shall not be liable for any loss arising out of the use of any of the Goods or the provision of Services.

6.2 Unless otherwise specified in an Order Form, the Customer shall be responsible for arranging for all testing and inspection of the Goods upon delivery. Nexus Fusion shall have no liability for any claim in respect of any defect in the Goods which would be apparent on such inspection.

6.3 A claim by the Customer which is based on any defect the quality or condition of the Goods or their failure to correspond with specification shall (whether delivery is refused

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by the Customer) be notified to Nexus Fusion within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Customer does not notify Nexus Fusion accordingly, the Customer shall not be entitled to reject the Goods and Nexus Fusion shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Agreement.

7. MANUFACTURER'S SPECIFICATION

7.1 Nexus Fusion will not be liable in respect of any loss or damage caused by or resulting from any variation for whatever reason in the manufacturer's specification or technical data.

7.2 Nexus Fusion will endeavour to advise the Customer of any manufacturer variation as soon as it receives notice thereof from the manufacturer.

8. PAYMENT

8.1 Nexus Fusion shall be entitled to invoice for Goods and Services as in the Order Form or immediately following delivery or performance (including where delivery is made in instalments).

8.2 The Customer shall pay all invoices for Goods and Services within 30 days of the date of Nexus Fusion's invoice, unless otherwise specified in the Order Form.

8.3 In respect of all Customers, and notwithstanding Clause 8.1 and 8.2 above, Nexus Fusion may suspend all deliveries of Goods and/or the performance of all Services and require different payment terms at Nexus Fusion's discretion if the Customer shall exceed any credit terms notified by Nexus Fusion to the Customer from time to time.

8.4 Notwithstanding delivery and the passing of risk, property in and title to the goods shall remain with the seller until the seller has received payment of the full price of (a) all Goods and/or Services the subject of the Contract and (b) all other goods and/or services supplied by the seller to the buyer under any contract whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between the seller and the buyer.

9. DELIVERY

9.1 Any dates quoted for delivery of the Goods are approximate only and Nexus Fusion shall not be liable for any delay in delivery of the Goods however caused.

9.2 Time for delivery shall not be of the essence of the Contract unless previously agreed by the Nexus Fusion in writing. The Goods may be delivered by the Nexus Fusion in advance of the quoted delivery date on giving reasonable notice to the Customer.

9.3 Quotations or offers of Goods ex-stock are subject to Goods being unsold at the time of receipt of the Customer's written order.

10. PERFORMANCE OF SERVICES

10.1 Nexus Fusion shall endeavour to perform the Services in accordance with the timing and schedule agreed upon between the parties. Time for the completion of the Services shall not be "of the essence" unless previously agreed by Nexus Fusion in writing and Nexus Fusion shall not be liable for any delay in performing the Services however caused.

11. NON-STANDARD GOODS

11.1 Unless otherwise agreed, all Goods are supplied in accordance with the manufacturer's or supplier's standard specifications. 11.2 Subject to Clause 4.2 Nexus Fusion reserves the right to increase its quoted or listed price or to charge accordingly in respect of any Order accepted for products of non-standard specifications. Without prejudice to the Customer's right to reject the Goods in accordance with Clause 6.3, Nexus Fusion will not consider cancellation of an Order for products

of non-standard specifications once Order has been accepted in accordance with this Agreement or the return of those Goods following delivery.

12. SOFTWARE AND DOCUMENTATION

12.1 Where Software is provided as part of Goods and/or Services, such Software is supplied under licence of the applicable third party owner or licensor. All proprietary rights in such Software, including title or ownership to the Software, shall remain with the relevant third party owner or licensor of such Software and shall not transfer to the Customer under any circumstances.

12.2 It is the sole responsibility of the Customer to comply with any terms and conditions of any Licence attaching to Software supplied under an Order and the Customer is hereby notified that failure to comply with such terms and conditions could result in the Customer being refused a software licence or having the same revoked by the proprietary owner. The Customer's failure to comply with such terms and conditions shall constitute a material breach of the Order.

12.3 All Software provided by Nexus Fusion under the Agreement is supplied "as is". If such Software fails to conform to its product description or proves defective in any other material way, the sole obligation of Nexus Fusion about the supply of such Software is to obtain and supply a corrected version from the manufacturer concerned provided always that the Customer has notified Nexus Fusion in writing of such defect or non-conformance to product description within 14 days of the date of delivery of the applicable Software.

12.4 Notwithstanding the provisions of any Licence:

12.4.1 unless otherwise agreed by Nexus Fusion, the Customer may only use Software for the purpose (if any) specified in the Order Form; 12.4.2 the Customer may not copy, modify or disassemble Software except to the extent as permitted by applicable law and on prior written notice to Nexus Fusion; 12.4.3 the Customer shall not remove, alter, cover or obliterate any copyright or other proprietary rights notice used on or about Software without the prior written consent of Nexus Fusion.

12.4.4 the Customer shall not permit any third party use of the Software in any way.

12.5 Any Documentation supplied by Nexus Fusion is supplied "as is" and as provided to Nexus Fusion by the relevant manufacturer or supplier of Goods or the third-party owner or licensor of the Software. Nexus Fusion makes no representations regarding the Documentation being satisfactory or fit for purpose or otherwise and accepts no liability for defects or errors or otherwise about in the Customer's use of the Documentation.

13. WARRANTIES

13.1 Each party warrants to the other that it has the full right, power and authority to enter and perform this Agreement and has not entered any arrangement which in any way conflicts with this Agreement or inhibits, restricts or impairs its ability to perform its obligations under this Agreement.

13.2 Except as expressly provided in these Terms and Conditions, Customer and Nexus Fusion expressly disclaims any further representations, warranties, conditions or other terms, express or implied, by statute, collaterally or otherwise, including but not limited to implied warranties, conditions or other terms of satisfactory quality, fitness for a purpose or reasonable care and skill.

14. LIABILITY

14.1 Subject to Clause 14.3 below, Nexus Fusion shall not be liable to the Customer in contract, tort (including negligence), statutory duty, pre-contract or other representations (other than fraudulent misrepresentations) or otherwise arising out of or in connection with this Agreement for: (a) consequential, indirect or special loss or damage; or (b) any loss of goodwill or reputation; or (c)

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any economic losses (including loss of revenues, profits, contracts, business or anticipated savings), in each case whether advised of the possibility of such loss or damage and howsoever incurred.

14.2 Subject to Clause 14.3 below. Customer and Nexus Fusion's

maximum liability to the other party in contract, tort

(including negligence), statutory duty, pre- contract or other

representations (other than fraudulent misrepresentations) or otherwise arising out

of an Agreement shall: 14.2.1 all loss or damage suffered by the other

party which is attributable to a specific Order, be limited to an amount

equivalent to the Charges paid to Nexus Fusion by Customer under the applicable Order Form; and

14.2.2 in respect of all loss or damage suffered by the other party, be

limited, to an amount equivalent to the total Charges paid to Nexus

Fusion by Customer for any Orders placed over the previous 6 months.

14.3 Nothing in this Agreement shall exclude or limit liability for death or

personal injury resulting from the negligence of either party or their

servants, agents or employees acting during their duties.

14.4 Notwithstanding Clauses 14.1 and 14.2, but subject

as provided in Clause 14.3, Nexus Fusion shall be under no liability in

respect of any defect in the Goods arising from any drawing, design or

specification supplied by the Customer, nor shall Nexus Fusion be under

any liability in respect of

any defect arising from fair wear and tear, wilful damage, negligence,

abnormal working conditions, failure to follow Nexus Fusion's instructions

(whether oral or in writing), misuse or alteration or repair of the Goods

without Nexus Fusion's approval.

15. TERMINATION

15.1 Each party shall have the right to terminate the Agreement on

written notice if the other party:

15.1.1 commits any material breach of the terms of the Agreement which,

in the case of a breach capable of remedy, is not remedied within 14

days of service of a notice specifying the breach and stating the

intention to terminate the Agreement if not remedied; or

15.1.2 is involved in any act connected with insolvency of the business or

ceases or threatens to cease to carry on business or becomes unable to

pay its debts within the meaning of Section 123 of the Insolvency Act

1986; or suffers any analogous event. 15.2 Nexus Fusion may terminate

this Agreement immediately upon written notice if there is any change

of control of the Customer, or any change the Customer's business.

15.3 On termination of this Agreement under this Clause 15, Nexus Fusion

shall have the right (without prejudice to any further or other claims or

right which Nexus Fusion might have) to cancel any uncompleted Order

or to cancel or suspend delivery, and payments for any delivery already

made shall immediately become due and payable notwithstanding any

other provisions of this Agreement.

15.4 On termination of this Agreement, howsoever occurring, any

Charges or other sums paid in advance, shall not be refundable in

whole or in part.

15.5 Termination of this Agreement shall be without prejudice to any

rights, liabilities or remedies of a party accrued before termination nor

shall it affect any provision of the Agreement which is expressly

intended to come into or continue in force after termination or expiry

15.6 Each party may terminate the Agreement by giving the other party

not less than 30 days written notice.

15.7 Customer may terminate the Agreement immediately upon written

notice if there is any changes of control of Nexus Fusion, or any change

to Nexus Fusion's business.

16. CONFIDENTIALITY AND DATA

16.1 During the term of the Agreement and for two (2) years thereafter,

each party will treat as confidential all information that they obtain

concerning, but not limited to, data, the business, finances, technology

and affairs of the other, ("Confidential Information"). Each of the parties

will use at least the same degree of care (and not less than a

reasonable degree of care) it uses to prevent the disclosure of its own

confidential information of like importance, to prevent the disclosure of

Confidential Information of the other party.

Each party will promptly notify the other party of any actual or

suspected misuse or unauthorised disclosure of the other party's

Confidential Information.

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the shall public cease domain to apply other to:

than by breach of this Clause or any other duty of confidence;

(ii) information that is obtained from a third party without breach of this

Clause or any other duty of confidence; and (iii) information that is

required to be disclosed by a regulatory

or government body or court of competent jurisdiction with power to

compel the disclosure.

16.3 Forthwith upon the termination or expiry of the Agreement each

party shall return all licensed and/or confidential materials, and all

copies in whole or part, of the other or if requested by the other party,

shall destroy

them and certify in writing to the other party that they have been

destroyed.

16.4 Each party will comply with its obligations pursuant to the Data

Protection Act 1998.

16.5 By entering the Agreement, the Customer gives its informed

consents to Nexus Fusion collecting its personal information from time

to time during business, which shall be processed in accordance with

the Nexus Fusion's Privacy Policy.

17. FORCE MAJEURE

17.1 Nexus Fusion and the customer shall not be liable for the

cancellation by it of any order or any unfulfilled part thereof or for

effecting partial delivery or performance if performance by Nexus Fusion

is prevented or delayed whether directly or indirectly by any cause

whatsoever beyond the reasonable control of Nexus Fusion whether

such cause existed or was foreseeable at the date of acceptance of the

Customer's Order by Nexus Fusion or not and without prejudice to the

generality of the foregoing any cause shall be deemed to prevent,

hinder or delay Nexus Fusion if Nexus Fusion is thereby prevented

hindered or delayed from fulfilling other commitments whether to the

customer or to third parties.

18. NOTICES

18.1 Any notice given under this Agreement will be in writing and shall be

deemed served if hand delivered to the other party or sent by pre- paid

post (with or without a facsimile transmission or confirmed email copy)

to the address or transmission number of that party as set out in the

Cover Page or such other address or number as may be notified under

this Agreement by that party from time to time for this purpose. 18.2

Notices will be deemed to be effective on personal delivery, within 48

hours of posting (if the address is in the UK or within 96 hours otherwise),

or upon confirmation of receipt of facsimile or email.

19. ASSIGNMENT AND SUB-CONTRACTING

19.1 Neither party shall be entitled to assign, transfer, charge or license

the whole or any part of its rights and/or obligations under the

Agreement to any party without consent of the other party.

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20. GENERAL

20.1 Relationship Nothing in the Agreement shall be deemed to create a partnership or joint venture or contract of employment of any kind between the parties nor shall it be deemed to grant any authority not expressly set out in this Agreement or create any agency between the parties.

20.2 Entire Agreement Each party confirms that the Agreement sets out the entire agreement and understanding between the parties and that it supersedes all previous agreements, arrangements and understandings between them relating

to the subject matter of the Agreement. Each party confirms that it has not relied upon any statement, representation

or understanding that is not an express term of an Order

and shall not have any remedy in respect of any statement, representation or understanding which is not an express term unless made fraudulently.

20.3 Waiver No failure or delay exercise by any party in exercising any right, power or remedy under the Agreement will operate as a waiver of that or any other right, power or remedy nor will any single or partial exercise by either party of any right, power or remedy preclude any further exercise of any other right, power or remedy.

20.4 Severance To the extent that any provision of the Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of the Agreement, it shall not affect the validity, lawfulness or enforceability of the remainder of the Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

20.5 Time of the Essence Time shall not be of the essence except where it is expressly stated to apply.

20.6 Rights of Third Parties Nothing in the Agreement

shall create or confer any rights or other benefits whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise in favour of any person other than the parties to this Agreement, save that the parties agree that the Customer is a party to the Licence with the Licensor.

20.7 Further Assurance Each party shall at the cost and expense of the other party use all reasonable endeavours to do all such further acts and things and execute or procure the execution of all such other documents as that party may from time to time. reasonably require for giving that party the full benefit of the assets, rights and benefits to be transferred to the other party under this agreement.

20.8 Governing Law The Agreement shall be construed in accordance with the laws of England and each party hereby irrevocably submits to the non-exclusive jurisdiction of the courts of England.

20.9 Miscellaneous The rights and remedies of the parties under the Agreement are cumulative and in addition to any rights and remedies provided by law. Any variation to the Agreement must be in writing and agreed by the parties. 20.10 Dispute Resolution If any dispute arises between the parties out of the Agreement, the parties shall attempt to settle it by referring it to a Board member of each party. If the dispute is not resolved by such board members within 1 month of such referral, then it shall be resolved by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure for a period not exceeding 3 months.

21. EXPORT TERMS

21.1 Unless the context otherwise requires, any term or expression which is defined in or given a meaning by the provisions of Incoterms shall have the same meaning in the Agreement, but if there is any conflict between the provisions of Incoterms and this Agreement, the latter shall prevail.

21.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this Clause 21 shall (subject to any special terms

agreed in writing between the Customer and Nexus Fusion) apply notwithstanding any other provision of the Agreement.

21.3 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

21.4 Unless otherwise agreed in writing between the Customer and Nexus Fusion, the Goods shall be delivered fob the air

or sea port of shipment and Nexus Fusion shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

21.5 The Customer shall be responsible for arranging for testing and inspection of the Goods at Nexus Fusion's premises before shipment.

Nexus Fusion shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit

21.6 Payment of all amounts due to Nexus Fusion shall be made by irrevocable letter of credit opened by the Customer in favour of Nexus Fusion and confirmed by a bank acceptable to Nexus Fusion or, if Nexus Fusion has agreed in writing on or before acceptance of the Customer's order to waive this requirement, by acceptance by the Customer and delivery to Nexus Fusion of a bill of exchange drawn on the Customer payable 60 days after sight to the order of Nexus Fusion at a branch of such bank in England as may be specified in the bill of exchange.

21.7 The Customer shall not offer the Goods for resale in any restricted country (as specified by the DTI or other UK government agency from time to time) or any country notified by Nexus Fusion to the Customer at or before the time the Customer's order is placed, or sell the Goods to any person if the Customer knows or has reason to believe that that person intends to resell the Goods in any such country.

22. NON-BUSINESS TRANSACTIONS

22.1 Clauses in this Section 22 shall only apply to the transactions between Nexus Fusion and the Customers who fall into the category of the consumers as defined in The Consumer Protection (Distant Selling) Regulations 2000, the Unfair Contract Terms Act 1977, or the Unfair Terms in Consumer Contracts Regulation 1999 ("Consumer Customer"). 22.2

Non-Business Customers may cancel the Order for any reason by sending a written notice of intention to cancel to Nexus Fusion within 7 working days from the receipt of the Goods by the Non-Business Customer. Non-Business Customers shall be responsible for the cost of returning the Goods.

22.3 Notwithstanding Clause 22.2 above, Non-Business Customers shall not be able to cancel the contract:

22.3.1 for the supply of Services once the performance of the Services has begun under the Non-Business Customer's instruction; 22.3.2 for the supply of Goods made to the Non-Business Customer's specifications or clearly personalised or which because of their nature cannot be returned;

22.3.3 for the supply of audio or video recordings or computer software if they are unsealed by the Non-Business Customer; or 22.3.4 for the supply of newspapers, periodicals or magazines. 22.4 In case the Goods ordered by the Non-Business Customer are no longer available and Nexus Fusion offers substitute Goods, the cost of returning substitute Goods shall be borne by Nexus Fusion.

22.5 Notwithstanding Clauses 13.2, 22.2 and 22.3 above, if the Goods or Services sold are not as described, of satisfactory quality, the Non-Business Customer may request a repair, replacement or refund within fourteen (14) days from the

date of receipt by contacting Nexus Fusion with the proof of purchase. The Non-Business Customer may request refund only if the Goods are unopened and in perfect condition accompanied by receipt.

22.6 Nothing in this Agreement shall affect the Non-Business Customer's statutory rights.