

GENERAL TERMS AND CONDITIONS

1. Definitions and Interpretation

- 1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in England;
“Client”	means the party procuring the Services from Gridsource;
“Commencement Date”	means the date on which provision of the Services will commence, as defined in the Specification;
“Contract”	the contract between Gridsource and the Client for the supply of the Services in accordance with these Terms and Conditions.
“Fees”	means any and all sums due under the Contract from the Client to the Gridsource, as specified in the Specification (or agreed following a change requested under clause 3.6);
“Order”	the Client's order for the supply of Services, as set out in the Client's purchase order form, or the Client's written acceptance of Gridsource's quotation (as the case may be)
“Services”	means the services to be provided by Gridsource to the Client as set out in the Specification;
“Gridsource”	means Gridsource Limited (company number: 09633536;
“Specification”	the description or specification for the Services provided in writing by Gridsource to the Client;

- 1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

- (a) **“writing”** or **“written”** includes fax and email;
- (b) a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- (c) **“these Terms and Conditions”** is a reference to these Terms and Conditions as amended or supplemented at the relevant time;
- (d) a reference to a clause is a reference to a clause of these Terms and Conditions; and
- (e) a **“Party”** or the **“Parties”** refer to the parties to the Contract (and this includes its successors and permitted assigns).

- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

2. Formation of contract

- 2.1 The Order constitutes an offer by the Client to purchase Services in accordance with these Terms and Conditions.
- 2.2 The Order shall only be deemed to be accepted when Gridsource issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 2.3 These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3. Provision of the Services

- 3.1 With effect from the Commencement Date, the Gridsource shall, throughout the term of the Contract, provide the Services to the Client in accordance with the Specification in all material respects.
- 3.2 Gridsource shall provide the Services with reasonable skill and care.
- 3.3 Gridsource shall act in accordance with all reasonable instructions given to it by the Client provided such instructions are compatible with the Specification. If those instructions will extend the scope of the Services then clause 3.6 shall apply.
- 3.4 Gridsource shall comply with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 3.5 If agreed by the Client from time to time, Gridsource may, in relation to certain specified matters related to the Services, act on the Client's behalf.
- 3.6 Gridsource shall use all reasonable endeavours to accommodate any reasonable changes in the Services that may be requested by the Client, subject to the Client's acceptance of any related changes to the Fees that may be due as a result of such changes.
- 3.7 Gridsource shall use all reasonable endeavours to meet any performance dates specified in Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

4. Client's Obligations

- 4.1 The Client shall use all reasonable endeavours to provide all pertinent information to Gridsource that is necessary for Gridsource's provision of the Services.
- 4.2 In the event Gridsource requires the decision, approval, consent or any other communication from the Client in order to continue with the provision of the Services or any part thereof at any time, the Client shall provide the same in a reasonable and timely manner.
- 4.3 If any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, it shall be the Client's responsibility to obtain the same in advance of the provision of the Services (or the relevant part thereof).
- 4.4 If the nature of the Services requires that Gridsource has access to the Client's premises or any other location the Client shall ensure that Gridsource has access to the same at the times to be agreed between Gridsource and the Client.

5. Fees, Payment and Records

- 5.1 Gridsource shall invoice the Client for Fees in accordance with the Specification.
- 5.2 The Client shall pay each invoice submitted by Gridsource within 20 Business Days of date of each invoice.
- 5.3 All payments made by the Client shall be made in GBP in cleared funds to such bank in England as Gridsource may from time to time notify to the Client. Where any payment is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.
- 5.4 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by Gridsource to the Client, the Client shall, on receipt of a valid VAT invoice from Gridsource, pay to Gridsource such additional amounts in respect of VAT.
- 5.5 If the Client fails to make a payment due to Gridsource under the Contract by the due date, then, without limiting the Gridsource remedies, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum. Interest under this clause 5.5 will accrue each day at:
 - (a) 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0% ("the Contractual Rate") before judgment; and
 - (b) the applicable statutory interest rate after judgment (unless such interest rate is less than the Contractual Rate in which case the Contractual Rate shall apply after judgment).

6. Liability, Indemnity and Insurance

- 6.1 Gridsource shall ensure that it has in place at all times suitable and valid insurance policies that shall include public liability insurance.
- 6.2 The restrictions on liability in this clause 6 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 6.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; and (b) fraud or fraudulent misrepresentation.
- 6.4 Subject to clause 6.3, the following types of loss are wholly excluded by Gridsource and it shall not be liable to the Client in respect of them:
 - a) loss of profits;
 - b) loss of sales or business;
 - c) loss of agreements or contracts;
 - d) loss of anticipated savings;
 - e) loss of use or corruption of software, data or information;
 - f) loss of or damage to goodwill; and
 - g) indirect or consequential loss.
- 6.5 Subject to clause 6.3, Gridsource's total liability to the Client within any contract year shall not exceed the cap, and:
 - a) the cap means the sum equal to 100% of the total charges in the contract year in which the breaches occurred;
 - b) a contract year means a 12-month period commencing with the date of the Contract or any anniversary of it; and
 - c) the total charges means all sums paid by the Client to Gridsource under the Contract.

- 6.6 Gridsource shall not be liable for any loss or damage suffered by the Client that results from the Client's failure to follow any instructions given by Gridsource.
- 6.7 Gridsource has given commitments as to compliance of the Services with relevant specifications. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.8 The Client shall indemnify Gridsource against any costs, liability, damages, loss, claims or proceedings arising from loss or damage to any equipment (including that belonging to any third parties appointed by the Gridsource) caused by the Client or its agents or employees.
- 6.9 Any delay in the provision of the Services resulting from the Client's failure or delay in complying with any of the provisions of clause 4 shall not be the responsibility or fault of Gridsource.

7. Confidentiality

- 7.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 7.2.
- 7.2 Each party may disclose the other party's confidential information:
 - a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 7; and
 - b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 7.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

8. Force Majeure

- 8.1 Neither Party to the Contract shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, and governmental action.
- 8.2 In the event that a Party to the Contract cannot perform their obligations hereunder as a result of force majeure for a continuous period of two months, the other Party may at its discretion terminate the Contract by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Contract.

9. Term and Termination

- 9.1 The Contract shall come into force on the agreed Commencement Date and shall continue until the Services have been completed, unless terminated earlier in accordance with clause 9.2.

- 9.2 Either Party may immediately terminate the Contract by giving written notice to the other Party if:
- a) any sum owing to that Party by the other Party under any of the provisions of the Contract is not paid on the due date and such non-payment is not corrected within 10 Business Days of being notified in writing to do so;
 - b) the other Party commits any other breach of any of the provisions of the Contract and, if the breach is capable of remedy, fails to remedy it within 20 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
 - c) the other party takes or has taken against it any step or action in connection with it entering into administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on substantially the whole of its business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

10. Effects of Termination

- 10.1 Upon the termination of the Contract for any reason:
- a) any sum owing by either Party to the other under any of the provisions of the Contract shall become immediately due and payable;
 - b) Gridsource may issue an invoice in respect of Services performed or Goods delivered for which no invoice has been submitted and the Client shall have thirty (30) days from the date of that invoice in which to pay the amount due;
 - c) all clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Contract shall remain in full force and effect;
 - d) termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Contract which existed at or before the date of termination;
 - e) each Party shall (except to the extent referred to in clause 7) immediately cease to use, either directly or indirectly, any confidential information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.
- 10.2 In the event that the Client cancels or postpones any Services which have been scheduled for a particular date with less than 48 hours' notice then the Client shall indemnify Gridsource on demand against all costs and expenses arising from such cancellation / postponement (including the cost of labour which cannot be employed elsewhere).

11. Waiver & Variation

- 11.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 11.2 No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 11.3 No variation of the Contract shall be effective unless it is agreed in writing and signed by the Parties (or their authorised representatives).

12. Set-Off

- 12.1 Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Contract or any other agreement at any time.

13. Assignment and Sub-Contracting

- 13.1 Subject to clause 13.2, the Contract shall be personal to the Parties and neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.
- 13.2 Gridsource shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors.

14. Relationship of the Parties

- 14.1 Nothing in the Contract shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Contract.

15. Non-Solicitation

- 15.1 Neither Party shall, for the duration of the Contract and for a period of twelve months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to the Contract without the express written consent of that Party.

16. Third Party Rights

- 16.1 No part of the Contract shall confer rights on any third parties under the Contracts (Rights of Third Parties) Act 1999.

17. Notices

- 17.1 All notices under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 17.2 Notices shall be deemed to have been duly given:
- a) when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
 - b) when sent, if transmitted by fax or e-mail; or
 - c) on the second business day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - d) on the tenth business day following mailing, if mailed by airmail, postage prepaid.
- 17.3 In each case notices shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

18. Entire Agreement

- 18.1 The Contract contains 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.
- 18.2 Each Party acknowledges that, in entering into the Contract, it does not rely on and shall have no remedy in relation to any representation, warranty or other provision (whether made innocently or negligently) that is not set out in the Contract.

19. Severance

- 19.1 In the event one or more of the provisions of the Contract is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of the Contract. The remainder of the Contract shall be valid and enforceable.

20. Dispute Resolution

- 20.1 The Parties shall attempt to resolve any dispute arising out of or relating to the Contract through negotiations between their appointed representatives who have the authority to settle such disputes.
- 20.2 If negotiations under sub-clause 20.1 do not resolve the matter within 30 days of receipt of a written invitation to negotiate, the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (the “ADR Procedure”).
- 20.3 If the ADR Procedure under sub-clause 20.2 does not resolve the matter within 14 days of the initiation of that procedure, or if either Party will not participate in the ADR procedure, the dispute may be referred to arbitration by either Party.
- 20.4 The seat of the arbitration under sub-clause 20.3 shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed between the Parties. In the event the Parties are unable to agree on the arbitrator(s) or the Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President for the time being of the Chartered Institute of Arbitrators for the appointment of an arbitrator or arbitrators and for any decision on rules that may be required.
- 20.5 Nothing in this clause 20 shall prohibit either Party or its affiliates from applying to a court for interim injunctive relief.
- 20.6 The decision and outcome of the final method of dispute resolution under clause 20 shall be final and binding on both Parties (except in the event of manifest fraud or error).

21. Law and Jurisdiction

- 21.1 The Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 21.2 Subject to the provisions of clause 20 of, any dispute, controversy, proceedings or claim between the Parties relating to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.