

### 1. DEFINITIONS

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In these Conditions, the following terms have the following meanings:

**Agreement:** any written agreement between the Parties with regard to the Service which attaches, refers to or otherwise incorporates these Conditions;

**Conditions:** these terms and conditions;

**Contract:** the contract between the Parties for the supply of the Service including these Conditions, together with any Quotation, accepted Order and/or any Agreement, as well as any attachments and exhibits, specification, additional terms and other information, physically or digitally attached or incorporated by reference thereto;

**Customer:** the contracting party which agrees to purchase the Service from Supplier under the Contract;

**Customer Data:** the data provided by Customer (or its Users) that resides in Customer's Service environment;

**Documentation:** any document(s) made available to Customer by Supplier which sets out a description of the Service and the user instructions for the Service

**IPR:** means all patents, rights to inventions, copyright and related rights, trade marks, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, confidential information (including know-how and trade secrets), and all other intellectual property rights and similar or equivalent rights which subsist or will subsist now or in the future in any part of the world;

**Order:** an order placed by Customer with Supplier for the Service;

**Parties:** Supplier and Customer, and "Party" means either one of them as applicable;

**Quotation:** a quotation provided by Supplier to Customer for the supply of the Service;

**Service:** means the cloud-based service to be provided by Supplier to Customer under the Contract;

**Service Term:** the initial term and any applicable renewal term under the Contract;

**Software:** any software programs to which the Supplier grants the Customer access as part of the Service and any program updates provided as part of the Service;

**Supplier:** means the legal entity which is party to the Contract as supplier of the Service;

**Supplier Affiliate:** any other company within Supplier's group of companies;

**Users:** those individuals authorized by Customer, or on behalf of the Customer, to use the Service;

**User Terms:** the terms which each User must accept prior to using the Service (if applicable).

### 2. BASIS OF CONTRACT, ORDERS & PRECEDENCE OF THE CONDITIONS

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- (a) These Conditions apply to the provision of the Service by Supplier to the exclusion of all other terms and conditions which Customer may seek to impose or incorporate in any order or similar document or by trade, custom, practice or course of dealing.

- (b) All Quotations shall be subject to these Conditions and unless otherwise stated or unless withdrawn by Supplier shall be valid for a period of sixty (60) days from the date of the Quotation. The Quotation is not an offer to proceed, and Customer is required to place an Order with Supplier using the same reference as on the Quotation.
- (c) Any Order constitutes an offer by Customer to purchase the Service in accordance with these Conditions. An Order shall only be deemed to be accepted when Supplier issues an acceptance of the Order or starts to fulfil it (whichever is earlier), at which point the Contract shall come into existence. Once accepted by Supplier no Order can be amended or cancelled except with Supplier's prior written approval and upon such terms as Supplier may require.
- (d) In case of conflict between these Conditions and the terms of an Agreement and/or an Order and/or a Quotation, the order of priority shall be, as applicable: (i) Agreement; (ii) Quotation (iii) any other documents forming part of the Contract (other than these Conditions and an Order); (iv) Conditions, and (v) Order (if accepted by Supplier).

### 3. PROVISION OF THE SERVICE

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Supplier will supply the Service as set out in the Contract and generally in accordance with the Documentation. Supplier reserves the right to amend the Service and/or Documentation without liability to Customer if required by any applicable statutory or regulatory requirements. In addition, Supplier's policy is one of continuous development and consequently the Service and/or Documentation may be amended from time to time and Supplier will not accept liability in such cases except where any variation is materially adverse to Customer.

### 4. RIGHTS GRANTED

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- (a) For the duration of the Service Term, Customer shall have the non-exclusive right to use the Service solely for Customer's normal business operations and subject to the terms of the Contract. Customer may allow its Users to use the Service for this purpose and the Customer is responsible for its Users' compliance with the Contract.
- (b) Customer acknowledges that Supplier has no delivery obligation and will not deliver copies of the Software to Customer as part of the Service. Customer further agrees that it does not acquire under the Contract any licence to use the Software in excess of the scope and/or duration of the Service. At the end of the Service Term, the Customer's right to access or use the Software and the Service shall terminate.
- (c) To the extent that Supplier provides a copy of any Software to Customer (rather than Supplier providing Customer access to Software which is delivered online and hosted by or on behalf of the Supplier remotely), Supplier grants to Customer a non-exclusive, personal and non-transferable (except as authorised in this Agreement) licence for the duration of this Agreement.

### 5. OWNERSHIP AND RESTRICTIONS

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- (a) Supplier, or its licensors, retain all ownership and IPR to the Service, the Software and the Documentation. Supplier

- retains all ownership and IPR in anything developed and delivered by Supplier under the Contract.
- (b) If third party technology is appropriate or necessary for use with the Service, Customer's right to use such third party technology is governed by the terms of the third party technology licence agreement.
  - (c) Customer may not (and shall procure that its Users shall not):
    - (i) remove or modify any Software markings or any notice of Supplier's or its licensors' proprietary rights;
    - (ii) make the Software or materials resulting from the Service available in any manner to any third party for use in the third party's business operations;
    - (iii) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the Service (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs), or access or use the Service in order to build or support, and/or assist a third party in building or supporting, products or services competitive to Supplier;
    - (iv) disclose results of any Service or program benchmark tests without the Supplier's prior written consent; or
    - (v) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the Service, Software or materials available, to any third party other than, as expressly permitted under the terms of the Contract.
  - (d) The rights granted to Customer under the Contract are also conditional on the following:
    - (i) if applicable, the rights of any specified User licensed to use the Service (e.g. on a "named user" basis) cannot be shared or used by more than one individual (unless such licence is reassigned in its entirety to another authorized user, in which case the prior authorized user shall no longer have any right to access or use the licence); and
    - (ii) Customer agrees to make all reasonable efforts to prevent unauthorized third parties from accessing the Service.

#### **6. WARRANTIES, DISCLAIMERS and EXCLUSIVE REMEDIES**

Supplier warrants that the Service will perform substantially in accordance with the Contract and Documentation. The warranty shall not apply to the extent of any non-conformance which is caused by use of the Service contrary to the Supplier's instructions, or modification or alteration of the Service by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Service does not conform with the foregoing warranty, Supplier will, at its expense, use all reasonable commercial endeavours to (i) correct any such non-conformance promptly, or (ii) 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.

SUPPLIER DOES NOT GUARANTEE THAT THE SERVICE WILL BE PERFORMED ERROR-FREE, VIRUS-FREE OR UNINTERRUPTED, OR THAT SUPPLIER WILL CORRECT ALL SERVICE ERRORS. CUSTOMER ACKNOWLEDGES THAT SUPPLIER DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. SUPPLIER IS NOT RESPONSIBLE FOR DELAYS, DELIVERY FAILURES OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS, OR FOR

MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.

TO THE EXTENT NOT PROHIBITED BY LAW SUPPLIER'S BENEFITS, RIGHTS AND OBLIGATIONS RELATED TO CONDITIONS OF USE, WARRANTY DISCLAIMER, ANY CUSTOMER INDEMNIFICATIONS SET OUT HEREIN, EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY, AND CONFIDENTIALITY SHALL EXTEND TO THE SUPPLIER'S AFFILIATES, LICENSORS AND SERVICE PROVIDERS.

If the Parties agree that Customer may use the Service for trial purposes, such use shall be subject to the terms and conditions of the Contract provided that the Service is provided "as is" and Supplier does not offer any warranties for such Service.

#### **7. IPR INDEMNIFICATION**

- (a) Supplier shall defend Customer against any claim that Customer's use of the Service or Documentation in accordance with the Contract infringes any IPR, and shall indemnify Customer for any amounts awarded against Customer in judgment or settlement of such claims, provided that:
  - (i) Supplier is given prompt notice of any such claim;
  - (ii) Customer provides reasonable co-operation to Supplier in the defence and settlement of such claim, at Supplier's expense; and
  - (iii) Supplier is given sole authority to defend or settle the claim.
- (b) In the defence or settlement of any claim, Supplier may procure the right for Customer to continue using the Service, replace or modify the Service so that it becomes non-infringing or, if such remedies are not reasonably available, terminate the Contract on immediate notice to Customer without any additional liability or obligation to pay liquidated damages or other additional costs to Customer.
- (c) In no event shall Supplier, its employees, agents and sub-contractors be liable to Customer to the extent that the alleged infringement is based on:
  - (i) a modification of the Service or Documentation by anyone other than the Supplier; or
  - (ii) Customer's use of the Services or Documentation in a manner contrary to the Contract or any instructions given to the Customer by Supplier; or
  - (iii) Customer's use of the Service or Documentation after notice of the alleged or actual infringement from Supplier or any appropriate authority.
- (d) The foregoing provisions of this clause state Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any IPR.

#### **8. RESTRICTIONS ON USE OF THE SERVICE**

Customer agrees (and shall procure that its Users agree) not to use or permit use of the Service, including by uploading, emailing, posting, publishing or otherwise transmitting any material, for any purpose that may (a) menace or harass any person or cause damage or injury to any person or property, (b) involve the publication of any material that is false, defamatory, harassing or obscene, (c) violate privacy rights or promote bigotry, racism, hatred or harm, (d) constitute unsolicited bulk e-mail, "junk mail", "spam" or chain letters; (e) constitute an infringement of IPR or other proprietary rights, or (f) otherwise violate applicable laws or regulations. In addition to any other rights afforded to Supplier under the Contract, Supplier reserves the right to remove or disable access to any material that violates the foregoing restrictions. Supplier shall have no liability to Customer if Supplier takes such action. Customer agrees to defend and

indemnify Supplier against any claim arising out of a violation of Customer's (and its Users') obligations under this clause.

## **9. CUSTOMER ACKNOWLEDGEMENTS & OBLIGATIONS**

Customer acknowledges and agrees that:

- (a) it shall provide Supplier with all necessary co-operation and provide Supplier without charge all access, information, authorisations and facilities necessary and/or requested by Supplier to enable Supplier to perform the Service;
- (b) it shall use the Service in accordance with all applicable laws and regulations, the Documentation, User Terms and all reasonable instructions issued by Supplier;
- (c) it shall ensure compliance with the Contract and User Terms by third parties who make use of the Service and shall be liable under the Contract for the acts and omissions of third parties as if they were Customer's acts omissions;
- (d) it shall notify Supplier of any defect in the Service immediately in case of emergencies or urgent situations and, for all other cases, as soon as possible but no later than 10 days of it becoming apparent;
- (e) except as otherwise expressly provided in the Contract, Customer is solely responsible for procuring, maintaining and securing adequate network connections and telecommunications links to enable the Service and shall allow the Service to pass its firewalls, and all problems, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by the internet;
- (f) except as otherwise expressly agreed in the Contract, Supplier shall not be responsible for (i) the integration of the Service with other software, systems or equipment or (ii) protection of Customer's equipment, software or systems against cyber security threats;
- (g) Customer is responsible for all usage and costs of communications and data in the use of the Service;
- (h) if applicable to the Service, Customer acknowledges that the safe voyage planning, operation and navigation of a vessel is dependent on human skill and judgement and is the responsibility of the relevant personnel responsible for such tasks. Accordingly, Supplier will not be liable for any accident, damage or delay caused by or to any vessel owned or operated by Customer or any other person whether or not the accident or damage is related to the operation or failure of the Service;
- (i) to the extent that Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission or failure to perform any of its obligations under the Contract by Customer, Supplier shall be relieved from the performance of any of its obligations shall not be liable for any costs or losses incurred directly or indirectly as a result.

## **10. FEES AND PAYMENT**

- (a) Customer shall pay Supplier for the Service in accordance with the fees and payment terms stated in any Agreement or Quotation or otherwise agreed in writing between the parties in the Contract. If such terms include any advance payments, Supplier shall not be obliged to provide access to the Service until the advance payment relating to the Service has been paid. In the absence of any other payment terms agreed in the Contract, payment for the Service shall be made within thirty (30) days of the date of the relevant invoice issued by Supplier. Any sums not paid on the due date shall be subject to an interest charge at the rate of eight percent (8%) per annum compounded on all amounts overdue until payment thereof, such to run from day to day

and to accrue after as well as before any judgment. Customer shall pay the interest together with the overdue amount.

- (b) Unless otherwise stated all prices are quoted excluding taxes, levies, duties or similar governmental assessments of any nature including without limitation value added, sales, use or withholding taxes, assessable by any jurisdiction, which are payable by Customer.
- (c) Supplier may, after giving reasonable advance notification to Customer:
  - (i) vary the fees for the Service from time to time, but not more than once per calendar year and subject to a maximum increase of 5% per year;
  - (ii) if Supplier's suppliers of products and services used in the Service increase their prices or change the terms relating thereto, pass such increases or changes on to Customer.
- (d) Any additional services which are not specified in the Contract but are agreed by the Parties to be provided by Supplier shall be subject to additional charges.
- (e) Fees due under the Contract are non-cancelable and sums paid nonrefundable. Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law.

## **11. TECHNICAL DATA COLLECTION**

Notwithstanding anything to the contrary in these Conditions, Supplier may collect and use certain data, gathered in connection with the Service, in order to provide, monitor and support the Service, to provide new services or technologies to Customer and to support and develop its products, solutions and services. Data may be transferred within Supplier Affiliates and to third parties who act for or on their behalf for processing the data. Supplier and Supplier Affiliates shall own any enrichment, report or derivative work developed or derived from such data. The rights granted hereunder shall survive any termination or expiration of the Contract. Subject to the foregoing provisions of this clause, the Confidential Information clause shall apply to Customer Data.

## **12. CONFIDENTIAL INFORMATION**

- (a) 'Confidential Information' means all information of a confidential nature disclosed (whether in writing, orally or by another means and whether directly or indirectly) by one Party (the 'Disclosing Party') to the other Party (the 'Receiving Party') whether before or after the date of the Agreement including, without limitation, information relating to the Disclosing Party's technical or commercial information, products, services, IPR, business affairs, operations, processes, plans or intentions.
- (b) The Parties shall at all times, both during the term of this Agreement, and for a period of five (5) years after its termination, keep in strict confidence all Confidential Information belonging to the other Party and restrict disclosure of such Confidential Information to such of its employees, professional advisers, agents or sub-contractors on a need to know basis for the purposes of discharging that Party's obligations or exercising its rights under this Agreement and shall ensure that such employees, professional advisers, agents or sub-contractors are subject to the same obligations of confidentiality as bind that Party. This obligation will not apply to the extent that the Receiving Party can demonstrate (i) the disclosed information at the time of disclosure is part of the public domain and became part of the public domain without breach of the provisions of these Conditions; (ii) the disclosed information was in the possession of the Receiving Party at the time of its disclosure

- by the Disclosing Party; or (iii) the disclosed information is received from a third party without similar restrictions.
- (c) The Receiving Party may disclose Confidential Information as required to comply with applicable laws or regulations but only to the extent required and will immediately notify the Disclosing Party (unless prohibited from doing so by law).

### 13. LIABILITY

- (a) The warranties given in these Conditions are the only warranties given by Supplier and otherwise these Conditions specify the entire liability of Supplier including liability for negligence and in particular but without limitation all statutory or other express implied or collateral terms conditions or warranties are excluded to the fullest extent permitted by law. Further, Customer assumes sole responsibility for results obtained from its use of the Service and the Documentation.
- (b) Nothing in these Conditions shall limit or exclude Supplier's liability for:
- (i) death or personal injury caused by its negligence, or by the negligence of its employees, agents or subcontractors;
  - (ii) fraud or fraudulent misrepresentation; or
  - (iii) any other liability which cannot legally be excluded.
- (c) Subject to sub-clause (b) above, Supplier shall under no circumstances whatever be liable to Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for:
- (i) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
  - (ii) any loss or corruption (whether direct or indirect) of data or information;
  - (iii) loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time);
  - (iv) business interruption or any loss or liability (whether direct or indirect) under or in relation to any other contract; or
  - (v) any indirect or consequential loss or liability whatsoever.
- (d) Subject to sub-clause (b) above, Supplier's total liability to Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid to Supplier under the Contract for the immediately preceding twelve (12) month period.
- (e) Customer is required to notify Supplier of any claim as soon as reasonably possible and in any event within ten (10) days of Customer suffering any alleged loss or damage.
- (f) Customer shall indemnify Supplier and its officers, directors, employees, affiliates, successors and assigns against, and hold them harmless from, all liability with regard to the Service supplied to Customer under the Contract arising out of or in connection with (i) the use or misuse of the Service by Customer or its Users (including without limitation its employees, contractors and/or agents) (ii) any negligence or willful acts or omissions of Customer or its Users (including without limitation its employees, contractors and/or agents); (iii) any breach of this agreement by Customer or its Users (including without limitation its employees, contractors and/or agents).

### 14. FORCE MAJEURE

- (a) For the purposes of these Conditions, **Force Majeure Event** means an event beyond the reasonable control of Supplier including but not limited to strikes, lock-outs or other

industrial disputes (whether involving the workforce of Supplier or any other party), failure of a utility service (including, without limitation, failure of electrical, internet or telecommunications) or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, imposition of sanctions, accident, breakdown of plant or machinery, fire, flood, storm, epidemic or default of suppliers or subcontractors.

- (b) Both Parties will use their reasonable efforts to mitigate the effect of a Force Majeure Event.
- (c) Supplier shall not be liable to Customer as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.
- (d) If the Force Majeure Event prevents Supplier from providing the Service (in whole or in part) for more than 90 days, either Party may terminate the Contract immediately by giving written notice to the other Party. This clause does not excuse either Party's obligation to take reasonable steps to follow its normal disaster recovery procedures or obligations to pay for the Service.

### 15. END OF CONTRACT, TERMINATION AND SUSPENSION

- (a) The Contract shall continue for the Service Term unless terminated earlier in accordance with its terms. At the end of the Contract, all rights to access or use the Service shall end.
- (b) Without prejudice to any claim or right it might otherwise make or exercise, Supplier shall have the right forthwith to terminate the Contract with immediate effect by notice and to claim for any losses, costs or expenses thereby incurred if:
- (i) Customer commits a material breach of any term of the Contract (including a failure to pay any amount due under the Contract on the due date for payment) and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing to do so;
  - (ii) Customer becomes insolvent, enters administration, liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), is wound up (unless for a solvent restructuring), has a receiver appointed to any of its assets or ceases to carry on business, or if any analogous step or action is taken in another jurisdiction
- (c) Without limiting its other rights or remedies, Supplier may suspend all or any part of the Service:
- (i) if Customer is in breach of this Agreement, including but not limited to any failure to pay the fees for the Service, and has not remedied such breach within 30 days of notice of the same;
  - (ii) if Customer puts the Supplier, its platform or Service at risk of technical or security threat, third party claims due to infringing or illegal content or data, or exposes the Supplier to some other liability or risk;
  - (iii) to comply with any legal requirement; or
  - (iv) if it is necessary to carry out maintenance, modifications or improvements of the Service (although Supplier will provide reasonable prior notice and keep suspension to a minimum).
- If Supplier suspends the service for a reason set out above, Customer shall remain liable throughout the period of suspension for all fees and such suspension shall not be regarded as a service failure or breach of contract.
- (d) On termination of the Contract for any reason Customer shall immediately pay to Supplier all of Supplier's outstanding unpaid invoices and interest.
- (e) Termination of the Contract shall not affect any of the Parties' rights and remedies that have accrued as at

termination, including the right to claim monies due or damages in respect of any breach of the Contract that existed at or before the date of termination.

- (f) Customer agrees and acknowledges that Supplier has no obligation to retain the Customer Data and that the Customer Data may be irretrievably deleted following the termination of the Contract.

## 16. DATA PROTECTION

- (a) In this clause, the following definitions shall apply:

**Agreed Purposes:** the performance of the Contract by each Party.

**Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures:** as set out in the Data Protection Legislation in force at the time.

**Data Protection Legislation:** (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) is no longer directly applicable, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, and then (ii) any successor legislation to the GDPR.

**Permitted Recipients:** the Parties, the staff of each Party and any third parties which perform obligations in connection with the Contract.

**Shared Personal Data:** the personal data to be shared between the Parties under sub-clause (b) below. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:

- (i) Categories of personal data: Name, Work Address, Work or Personal Email Address and telephone number (including mobile telephone number);
- (ii) Categories of data subject: the staff of Supplier, Customer and any other party which performs obligations in connection with the Contract.
- (b) **Shared Personal Data.** This clause sets out the framework for the sharing of personal data between the Parties as data controllers. Each Party acknowledges that one Party (the Data Discloser) will regularly disclose to the other Party (the Data Recipient) Shared Personal Data collected by the Data Discloser for the Agreed Purposes.
- (c) **Effect of non-compliance with Data Protection Legislation.** Each Party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one Party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other Party to terminate the Contract with immediate effect.
- (d) **Particular obligations relating to data sharing.** Each Party shall:
- (i) ensure that it has all necessary notices and consents in place to enable lawful transfer of Shared Personal Data to the Permitted Recipients for Agreed Purposes;
- (ii) process Shared Personal Data only for Agreed Purposes;
- (iii) not disclose or allow access to Shared Personal Data to anyone other than Permitted Recipients;
- (iv) ensure that all Permitted Recipients are subject to written contractual obligations concerning Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by the Contract;
- (v) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful

processing of personal data and against accidental loss or destruction of, or damage to, personal data.

- (vi) not transfer any personal data received from the Data Discloser outside the EEA unless the transferor:
- a. complies with the provisions of Articles 26 of GDPR (in the event the third party is a joint controller); and
- b. ensures that (A) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (B) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (C) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.
- (e) **Mutual assistance.** Each Party shall assist the other in complying with all applicable requirements of the Data Protection Legislation.
- (f) **Supplier Privacy Notice.** In providing the Service, Supplier will comply with its Privacy Policy. Full details of Supplier’s personal data processing activities are set out in Supplier’s Privacy Notice which is available at: <https://www.wartsila.com/legal-privacy/privacy> and incorporated herein by reference. Supplier’s Privacy Notice is subject to change at Supplier’s discretion. Customer shall provide details of or access to Supplier’s Privacy Notice to any data subject whose details are shared with Supplier by Customer and/or who works on behalf of Customer in connection with the Contract.
- (g) **Customer Data.** Customer shall provide any notices and obtain any consents related to its use of the Service and the Supplier’s provision of the Service, including those related to the collection, use, processing, transfer and disclosure of personal information. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of the Customer Data.

## 17. GENERAL

- (a) **Governing Law and Disputes.** These Conditions shall be governed by and construed in accordance with the law of England. Any dispute arising out of or in connection with these Conditions shall be referred to and finally resolved by arbitration under the London Court of International Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. English law and the Arbitration Act 1996 (or any replacement Act) shall apply. The language to be used in the arbitral proceedings shall be English. A request by a Party to a court of competent jurisdiction for interim measures necessary to preserve that party’s rights, including pre-arbitration attachments or injunctions, shall not be deemed incompatible with, or a waiver of, this agreement to arbitrate. The arbitration award shall be final and binding upon the Parties.
- (b) **Assignment and subcontracting.** Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract provided that if Supplier subcontracts its obligations it shall remain liable for them. Customer may not assign, transfer, charge, subcontract or deal in any other manner with any or all of Customer’s rights or obligations under the Contract without Supplier’s prior written consent.
- (c) **Notices.** Any notice or other communication given to a Party under or in connection with the Contract shall be in writing, addressed to that Party at its registered office, its principal place of business or such other address as that Party may



have specified to the other Party in writing, and shall be delivered personally or commercial courier. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

- (d) **Severance.** If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- (e) **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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 preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (f) **Third Parties.** Except as expressly provided, a person who is not a party to it has no rights to enforce any term of the Contract.
- (g) **Survival of Terms.** The provisions of the Contract which expressly or by implication survive expiration or termination thereof shall continue in full force and effect until all obligations are satisfied.
- (h) **Entire Agreement.** The Contract constitutes the entire agreement between the Parties. These Conditions supersede all previous conditions, understandings, commitments, agreements or representations whatsoever whether oral or written relating to the subject matter hereof.
- (i) **Consumer.** Where the Service is sold under a consumer transaction the statutory rights of the consumer are not affected by these Conditions.
- (j) **Variation.** No modification of these Conditions or any other provision of the Contract shall be effective unless made by an express written agreement between the Parties.
- (k) **Anti-Bribery.** Each Party represents and confirms that it is aware of, understands, and will comply with all applicable country laws and regulations relating to anti-corruption and anti-bribery. In addition, each Party agrees that so long as it is conducting business with the other Party or the other Party's affiliates, it will not, directly or indirectly, on behalf of the other Party or the other Party's affiliates promise, offer, solicit, authorize, give or receive a bribe, or other corrupt payment, item or service of value, or any other corrupt advantage, whether in cash or in kind, in relation to the performance of the Contract.
- (l) **Export Control.** Relevant local export laws and regulations may apply to the Service. If applicable, Customer agrees that such export control laws govern its use of the Service (including technical data) and any deliverables provided under the Contract, and Customer agrees to comply with all such export laws and regulations not to do anything to put the Company in breach of any such laws and regulations. If applicable, Customer agrees that no data, information, software programs and/or materials resulting from the Service (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws. On Supplier's request, Customer will provide Supplier with all relevant certificates

and other information, including but not limited to end-user certificates. Where performance of either Party would be in violation of, or expose such party, or an affiliate company of such party, to punitive measures under any export control or sanctions laws, the affected party shall, as soon as reasonably practicable give written notice to the other party of the affected obligation and shall be entitled to immediately suspend the affected obligation until such time as the obligation is no longer affected.

- (m) **Customer Reference.** Customer agrees (i) that Supplier may identify Customer as a recipient of the Service and use Customer's logo in sales presentations, marketing materials and press releases, and (ii) to develop a brief customer profile for use by Supplier for promotional purposes.