

1. **GENERAL**

1.1 In these Terms and Conditions:

"Pulsion" means Pulsion Technology Limited, a company incorporated under the Companies Acts (registered number SC156453) and having its registered office at 5 Eagle Street, Glasgow, G4 9XA;

"Confidential Information" means information of either party, either designated as confidential or which ought reasonably to be regarded as such;

"Contract" means these Terms and Conditions together with the Offer accepted by the Client;

"Force Majeure" means any circumstances beyond a party's reasonable control including, without limitation, any act of God, strike or other form of industrial action, war or terrorism;

"Intellectual Property Rights" means trade marks (whether registered or unregistered) patents, registered designs, unregistered designs, copyright, database rights, design rights, technical/Confidential Information, know how or inventions and similar rights or proprietary rights of a similar nature in the United Kingdom and abroad including applications for any of the foregoing;

"Offer" means the offer from Pulsion to the Client regarding the Services;

"Client" means the person/company/firm/business entering into a Contract with Pulsion for the supply of Services;

"Services" means the services detailed in the Offer;

"Price" means the price of the Services under the Contract as detailed in the Offer;

1.2 The singular number includes the plural and *vice versa*. Headings are for convenience only and shall not affect interpretation.

1.3 These Terms and Conditions contain the only terms under which Pulsion contracts.

They replace any conditions of the Client and may only be varied or added to with the express approval in writing of an authorised signatory of Pulsion.

2. **PRICE AND PAYMENT TERMS**

2.1 Unless otherwise agreed by Pulsion, payment for the Services shall be on a time and materials basis as detailed in the Offer. Payment shall be made within 30 days from the date of Pulsion's invoice. Time of payment shall be of the essence. Payment due to Pulsion shall be subject to value added tax.

2.2 The Price shall be invoiced by Pulsion in accordance with the Offer.

2.3 Any quote or estimate provided by Pulsion to the Client for the Services is valid for a period of 30 days.

2.4 Pulsion shall not incur any outlays on behalf of the Client without the prior written consent of the Client. Pulsion may request and the Client shall be required to submit payment for any outlays in advance of such outlays being incurred by Pulsion.

2.5 Interest at the rate of 5% per annum above the base rate from time to time fixed by The Royal Bank of Scotland plc, shall accrue on a daily basis on any overdue payments from the due date for payment until receipt of cleared funds.

2.6 Pulsion reserves the right and shall be entitled at any time prior to delivery of the Services on giving written notice to the Client to increase the Price in the event of Pulsion incurring any extra costs due to increased

labour or material costs caused by a change in the Services which are requested by the Client or any delay caused by any instructions of the Client or failure of the Client to give adequate information or instruction.

3. UNDERTAKINGS BY PULSION

- 3.1 Pulsion will at all times use reasonable skill and care in the performance of Services. Pulsion accepts no responsibility for the quality of any services provided by third parties which are incorporated or used by Pulsion in the Services.
- 3.2 Pulsion shall, in conjunction with the Client, agree the Pulsion employee to perform the Services. The parties acknowledge that Pulsion may require to change such employee but in this event, Pulsion shall use all reasonable endeavours to intimate any replacement to the Client as soon as reasonably practicable. Any replacement shall be an employee of equal seniority to the employee being replaced.
- 3.3 Whilst Pulsion will use all reasonable endeavours to ensure that when performing the Services for the Client it does not infringe the rights of a third party including third party Intellectual Property Rights, no warranty is given in this regard. Whilst Pulsion may provide recommendations to the Client with regards to third parties who may provide additional or related services, Pulsion shall not be liable for any loss or damage whatsoever, including loss of profits or revenue suffered as a result of any services provided by any third party so recommended, or any loss suffered as a result of such a third party becoming insolvent, going into liquidation or receivership or administration, as the case may be.
- 3.4 The Client acknowledges that software in general is not error or bug free and agrees that the existence of such shall not constitute a breach of these Terms and Conditions. If the Client discovers a material error in any software provided as part of the Services which substantially affects the Client's use of such software and notifies Pulsion of the same within 30 (thirty) days of receipt of the software by the Client, Pulsion shall at its sole option either refund part of the sums paid to Pulsion for the Services, or alternatively, Pulsion shall use reasonable endeavours to correct that part of the software if it does not so comply, PROVIDED THAT such non-compliance has not been caused by any modification, variation or addition to the software or caused by its incorrect use, abuse or corruption or use of the software with other equipment which is incompatible. This is the sole extent of Pulsion's liability. Pulsion disclaims all other warranties with respect to any software provided as part of the Services whether express or implied, including but not limited to any implied warranties or fitness for any particular purpose, to the fullest extent permitted by law.
- 3.5 Pulsion shall not be liable for any indirect or consequential loss or damage whatsoever, including loss of profits or revenue suffered by the Client.
- 3.6 In no event shall Pulsion's entire and aggregate liability to the Client whether under the terms of these Terms and Conditions or otherwise (including and/or the laws of negligence and/or breach of statutory duty) exceed a total sum equal to the Price.

4. HEALTH AND SAFETY

- 4.1 Prior to the commencement of the Services, the Client hereby agrees to provide to Pulsion copies of any and all relevant health and safety policies that may apply in the event that any part of the Services is provided on the premises of the Client.
- 4.2 In the event that Pulsion is to provide any part of the Services to the Client in the Client's premises, the Client hereby agrees to provide such access to its premises as may reasonably be required by Pulsion to perform the Services.

5. INTELLECTUAL PROPERTY RIGHTS

5.1 Any and all Intellectual Property Rights owned by Pulsion prior to the commencement of the Services shall remain the exclusive property of Pulsion.

5.2 Any and all Intellectual Property Rights generated by Pulsion in providing the Services ("Pulsion's Intellectual Property Rights") shall belong exclusively to Pulsion. Subject to payment in full of the Price, Pulsion agrees to grant to the Client a non-exclusive, royalty-free non-transferrable licence to use Pulsion's Intellectual Property Rights. For the avoidance of doubt, said licence shall not entitle the Client to copy or reproduce, alter, adapt or reformat any of Pulsion's Intellectual Property Rights without the prior written permission of Pulsion.

6. TERMINATION

6.1 Pulsion reserves the right to terminate any Contract with the Client by immediate written notice (i) should the Client be in material breach of its obligations and fail to remedy such breach within seven days following written notice from Pulsion; or (ii) should the Client be or become bankrupt or make any arrangements with its creditors or become apparently insolvent or have a liquidator, receiver or similar officer appointed over the whole or any part of its assets or (in any case) cease, or threaten to cease, trading.

7. PAYMENT OF PRICE

7.1 Payment of the Price shall be made in full without any deduction. No withholding or retention shall be permitted without Pulsion's prior approval.

8. CONFIDENTIALITY

8.1 Each party hereby agrees that it shall and shall procure that its employees shall retain as confidential any Confidential Information of the other party. Information shall not be deemed to be confidential if:- (a) it is or comes into the public domain otherwise than by breach of these Terms and Conditions; or, (b) is required to be disclosed by law; or, (c) is disclosed to the receiving party by a third party lawfully entitled to disclose the same.

9. ASSIGNATION

9.1 The Client shall not be entitled to assign any of its rights or obligations under the Contract without Pulsion's prior written consent.

10. TAXES/IMPORT DUTIES

10.1 The Client will pay all sales taxes (including value added tax), customs or other import duties, costs of regulatory approvals and the like. If Pulsion meets any such costs the Client will make full reimbursement on demand.

11. GENERAL

11.1 The Client shall not without the prior written consent of Pulsion at any time during the period of the Contract, and for a period of 6 (six) months thereafter, solicit or endeavour to entice away from or discourage from being employed by Pulsion any person who is, or shall at any time during the term of the Contract be one of Pulsion's employees engaged in providing the Services.

11.2 These Terms and Conditions, together with the Offer constitute the entire agreement between the parties regarding the subject matter hereof and supersede any and all previous negotiations between the parties regarding the subject matter hereof.

11.3 The Contract is not evidence of any joint venture or partnerships between the parties. Neither party is the agent of the other and shall not have authority to bind the other.

- 11.4 In the event that any part of these Terms and Conditions are deemed to be a illegal or unenforceable, this shall not affect the remaining parts which shall remain in full force and effect.
- 11.5 All notices which are required to be given hereunder shall be in writing and shall be sent to the registered office address of the recipient. Any such notice may be delivered personally or by first class pre-paid letter or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 (forty eight) hours after posting and if by facsimile transmission when despatched provided there is a correct answer back.
- 11.6 The terms of Clauses 2, 3.4, 3.5, 3.6, 5, 7, 8, 11.1 and 12 of these Terms and Conditions shall extend post termination.
- 12. GOVERNING LAW**
- 12.1 Scots law shall govern these Terms and Conditions and the Contract. The parties agree to submit to the exclusive jurisdiction of the Scottish courts in the event of dispute.
- 13. FORCE MAJEURE**
- 12.1 Neither party will be liable to the other for any delay in or failure to perform or comply with its obligations (except those relating to payment) under the Contract as a result of Force Majeure. The affected party shall promptly notify the other of the commencement and cessation of a Force Majeure. If Force Majeure continues for a period in excess of 90 days either party shall be entitled to terminate the Contract forthwith by written notice and without liability for termination. If the Contract is terminated under this Clause 13, all orders for Services placed prior to the date of termination will be deemed to have been cancelled and the Client shall pay Pulsion for all Services already supplied, work-in-progress, and the cost of materials reasonably ordered by Pulsion in expectation of completing the contract.