



ESPRIA Limited: Standard Terms of Business

1. INTERPRETATION

- 1.1 In these Terms "Contract" means the contract for the sale of the Goods and/or the provision of the Services; "Customer" means the person, firm or company with whom the Contract is made as set out on the order; "ESPRIA" means ESPRIA Limited (and its assignees and/or successors); "Goods" means the goods (including any instalment of the goods or any parts for them) which ESPRIA is to supply under the Contract; "Services" means the services which ESPRIA is to provide under the Contract as agreed under an Order; "Terms" means the standard terms and conditions set out in this document; "Working day" means any day other than a Saturday, Sunday, bank or public holiday.
- 1.2 References to statutes or statutory provisions includes the same as amended, modified, consolidated or re-enacted whether before or after the date of the Contract. The headings are for ease of reference only.

2. ORDERS

- 2.1 ESPRIA shall sell the Goods and/or supply the Services and the Customer shall purchase the same in accordance with (as applicable) (i) the quotation issued by ESPRIA which is accepted by the Customer, or (ii) any order of the Customer which is accepted by ESPRIA, which in either case shall be subject to these Terms and a Contract shall be formed. These Terms recognise that a quote may be provided without an Order where for example an Order is made over the telephone or a quote is in relation to a multiple order.
- 2.2 No order submitted by the Customer shall be deemed to be accepted by ESPRIA unless and until (the earlier of) (i) it is acted upon by ESPRIA or (ii) confirmed in writing by ESPRIA's authorised representative.
- 2.3 Where orders cover to "Microsoft" related products and services the pricing is subject to the Customer designating ESPRIA limited as its "Digital Partner of Record" as may be required by Microsoft.
- 2.4 All orders placed or accepted by telephone shall be deemed to incorporate these Terms.
- 2.5 The Customer shall be responsible to ESPRIA for ensuring the accuracy of any order and for giving ESPRIA any necessary information relating to the Goods and/or Services in sufficient time to enable ESPRIA to perform the Contract properly.
- 2.6 These terms shall govern the contract to the exclusion of any other terms implied by trade custom or course of dealing or which the customer may seek to introduce when accepting any quotation of Espria or when placing any order.
- 2.7 These Terms together with any quotation or other Contract document into which they are incorporated represent the entire agreement and understanding between the Customer and ESPRIA with regard to the Contract.
- 2.8 No alterations to the Contract or any of these Terms shall be binding on ESPRIA unless agreed in writing and ratified by a member of the ESPRIA board.
- 2.9 ESPRIA considers these Terms to be fair and reasonable and its prices and insurance arrangements are based upon contracts made on these Terms. IF THE CUSTOMER CONSIDERS THESE TERMS TO BE UNREASONABLE, IT MUST INFORM ESPRIA IN WRITING BEFORE ANY CONTRACT IS MADE. Otherwise it will be deemed to have accepted them as fair and reasonable.

3. CANCELLATION

- 3.1 No order may be cancelled by the Customer except with the agreement in writing of ESPRIA and on terms that the Customer shall indemnify ESPRIA in full against all loss (including loss of profit), costs (including the cost of all labour and materials), damages, stranded costs, re-stocking charges and expenses incurred by ESPRIA as a result of cancellation.
- 3.2 In the event that the Customer requests the postponement or cancellation of Services a cancellation fee shall apply which shall vary depending on the period of notice given as follows:
 - 3.2.1 Notice greater than 2 working weeks no charge other than expenses incurred by ESPRIA Limited;
 - 3.2.2 Notice greater than 1 working week but less than 2 working weeks 50% of the charges associated with the work to be undertaken plus expenses incurred by ESPRIA Limited;
 - 3.2.3 Notice greater than 2 working days but less than 1 working week 75% of charges associated with the work to be undertaken plus expenses incurred by ESPRIA limited;
 - 3.2.4 Notice period of 2 working days or less 100% of the fees payable for the associated planned work.
- 3.3 Where the postponement or cancellation of work is as a result of the failure by the Customer to complete their prerequisites as required by the project initiation document, said postponement or cancellation will be deemed to have been at the request of the Customer, notwithstanding the decision to defer may have been taken by ESPRIA Limited, and the customer may therefore be charged the full costs associated with the planned work.

4. SPECIFICATIONS OF GOODS

- 4.1 The quantity, quality and description of and any specification for the Goods shall be those set out in (as applicable in the circumstances) (i) ESPRIA's quotation (where required to be accepted by the Customer) or (ii) the Customer's order (where required to be accepted by ESPRIA).
- 4.2 Any descriptions, illustrations and particulars contained in ESPRIA's sales literature and any advertising media are by way of general descriptions and approximate only and shall not form part of the Contract or give rise to any liability on the part of ESPRIA.
- 4.3 ESPRIA reserves the right (without any liability to the Customer) to make any changes in the specification of the Goods or Services which (a) are required to conform with any applicable safety or other statutory requirements, or, (b) where the Goods or Services are to be supplied to the Customer's specification, do not materially affect their quality or performance, Provided Always that the Customer shall not be obliged to accept Goods or Services which do not comply with the Contract.
- 4.4 The Goods are only suitable for the uses and applications made known to ESPRIA at the time of the Contract. If the Customer intends to purchase the Goods for any other use or application then the Customer must use its own skill and judgement in deciding whether they are suitable.
- 4.5 Where Goods are adapted to the Customer's specification ESPRIA shall have no liability in respect of their fitness for any particular purpose.

5. ACKNOWLEDGEMENT

- 5.1 The customer acknowledges that it is not entering into the contract on the basis of, or in reliance upon, any statement, representation, warranty or undertaking except as expressly set out in the contract.

6. GOODS SUPPLIED FOR LOAN OR EVALUATION

- 6.1 Any Goods supplied to the Customer for loan or evaluation purposes must be returned in their original condition and packaging with all warranty documents and manuals, within the time specified on despatch. ESPRIA shall be entitled to charge for any items not so returned within the time period so requested by ESPRIA.

7. THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

- 7.1 If any work is required to be done on or to the Goods in accordance with the requirements or specifications of the

Customer, the Customer shall indemnify ESPRIA against all loss, damages, costs and/or expenses awarded against, or incurred by, ESPRIA, its employees, agents, contractors and/or suppliers in connection with any claim for infringement of any third party's patent, copyright, registered design, design right, know-how or service mark or trademark in any part of the world which results from ESPRIA supplying the Goods or Services in accordance with the Customer's specification.

- 7.2 Where the Goods include computer software, it shall be a condition of supply that the Customer enters into such licences as the proprietor of the copyright (or any other intellectual property rights) in the software may require. The Customer shall indemnify ESPRIA against any claims arising from breach of this condition or any licence by the Customer.

8. PRICE

- 8.1 The price of the Goods and/or Services shall be ESPRIA's quoted price in pounds sterling. All prices quoted are valid for 30 days or until ESPRIA's suppliers' prices change (whichever is earlier), after which time they may be altered by ESPRIA without notice to the Customer.
- 8.2 ESPRIA reserves the right by giving notice to the Customer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to ESPRIA due to (i) incorrect information provided by the Customer in breach of clause 2.5; (ii) inflation increases and/or (iii) any factor beyond its control, including and limited to exchange rate fluctuations, any change in delivery dates, delivery address, quantities, or specifications for the Goods and/or Services which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give ESPRIA adequate information or instructions.
- 8.3 Unless otherwise stated, all prices and charges are exclusive of:
- 8.3.1 carriage and insurance
 - 8.3.2 any release certificates or certificates of conformity
 - 8.3.3 value added tax, and any other applicable tax, duty or surcharge, which will be charged at the applicable rate and recoverable as part of the price by ESPRIA.
- 8.4 Where a price is stated to include carriage, such carriage is on the basis of delivery on the next working day following despatch between 8:30 am and 5:30 pm, unless otherwise stated. Timed, Saturday or more expedited delivery will incur additional charges.

9. GENERAL PAYMENT TERMS

- 9.1 Except where ESPRIA has previously agreed credit terms, payment for all Goods and Services must be made within 30 days of receipt of an accurately rendered invoice
- 9.2 ESPRIA shall be entitled at any time by notice in writing to the Customer to stipulate the method of payment and may withhold deliveries if the stipulated method is not used. Otherwise, payment may be made by cash, cleared cheque, bankers draft or BACS transfer. Credit cards are not accepted except by special agreement.
- 9.3 The time for payment of the price shall be of the essence of the Contract.
- 9.4 Payment by cheque or other negotiable instrument is ineffective until honoured and ESPRIA's account irrevocably credited with the amount due.
- 9.5 If ESPRIA is unable to deliver all the Goods or supply all the Services ordered by the Customer for reasons beyond ESPRIA's reasonable control (including, but not limited to, those in clause 20), the Customer shall pay for such of the Goods as are delivered or the Services as are supplied.
- 9.6 Where goods are to be supplied over an agreed period (eg. Instalments) and the price of goods has been fixed for the period then the Customer agrees to pay ESPRIA within 30 days of delivery of those goods to ESPRIA. Any manufacturer warranties as referred to in clause 13 will commence at time of delivery to ESPRIA unless otherwise agreed.
- 9.7 Where Services are to be provided over an agreed period, the Customer agrees to pay against monthly invoices or against pre-agreed milestones (whichever has been agreed in writing between the parties).

10. CREDIT TERMS

- 10.1 Where credit terms have been agreed, the following provisions shall apply.
- 10.2 Goods:
- 10.2.1 ESPRIA shall be entitled to invoice the Customer for the price of the Goods on, or at any time after, delivery, unless the Goods are to be collected by the Customer or the Customer wrongfully fails or refuses to take delivery of the Goods, in which case ESPRIA shall be entitled to invoice at any time after it has notified the Customer that the Goods are ready for collection or (as the case may be) ESPRIA has indicated its readiness to deliver the Goods.
 - 10.2.2 Where delivery takes place by instalments, ESPRIA shall be entitled to invoice each instalment separately.
 - 10.2.3 Where ESPRIA has agreed, at the Customer's request, to postpone delivery of Goods which are already in stock with ESPRIA or on order from ESPRIA's suppliers, then ESPRIA shall be entitled to invoice the Customer as if delivery had taken place on the date upon which they would have been delivered but for the postponement, together with any storage costs incurred by ESPRIA.
 - 10.2.4 The Customer shall pay the price of the Goods (without any deduction or set-off) within 30 days of the date of invoice notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. ESPRIA shall be entitled to bring an action for the price, or part thereof, whether or not the title to the Goods has passed.
- 10.3 Services:
- 10.3.1 ESPRIA shall be entitled to invoice the Customer for the Services at supply, in this context supply shall be deemed to have taken place on the date or dates pre agreed notwithstanding these may have been delayed or deferred by the customer unless deferment of invoicing has similarly and specifically been agreed by both parties.
 - 10.3.2 Unless otherwise agreed in writing, ESPRIA shall be entitled to invoice the Customer for the full Contract price of the Services where ESPRIA is able to supply the Services notwithstanding that the Customer may decide that it no longer requires all or any part of the Services.
 - 10.3.3 Where performance takes place by instalments, ESPRIA shall be entitled to invoice each instalment separately.
 - 10.3.4 The Customer shall pay the fee for the Services (without any deduction or set-off) within 30 days of receipt of an accurately rendered invoice upon issue of ESPRIA's invoice and in any event prior to the supply of the Services or where specific terms have been agreed in writing, in accordance with those terms.
- 10.4 General:
- 10.4.1 If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to ESPRIA, ESPRIA shall be entitled to:
 - 10.4.2 cancel the Contract or suspend any further deliveries or performance and, in either case, hold the Customer liable for costs incurred in respect of Goods already ordered by ESPRIA from its suppliers and in respect of Goods ready for despatch.
 - 10.4.3 appropriate any payment made by the Customer to such of the Goods or Services (or to the goods supplied under any other contract between the Customer and ESPRIA) as ESPRIA may think fit (notwithstanding any purported appropriation by the Customer).
 - 10.4.4 charge the Customer interest, calculated and accruing daily (both before and after any judgement), on the amount unpaid at the rate of 2% per annum above National HSBC Bank Plc's base rate from time to time, until payment in full

is made.

- 10.5 Any credit allowed to the Customer shall be subject to ESPRIA being satisfied as to the Customer's continuing credit-worthiness and may be withdrawn at any time.
- 10.6 The Customer shall not be entitled by reason of any claim against ESPRIA to withhold any payment.
- 10.7 Only those directly party to this contract shall accrue rights or obligations there under. It is the intention of the Parties to this contract that the rights of third parties under the CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 shall be specifically and completely excluded from this contract.

11. DELIVERY OF GOODS

- 11.1 Delivery of the Goods shall be made by the Customer collecting the Goods at ESPRIA's premises at any time after ESPRIA has notified the Customer by telephone that the Goods are ready for collection. If ESPRIA has agreed to send the Goods to the Customer, then, unless otherwise agreed, delivery shall be made by ESPRIA's (or its carrier) delivering the Goods to the Customer at the address agreed at the time of order between the hours of 8:30 am and 5:30 pm on a Working Day. Unless ESPRIA is required to install the Goods as agreed, ESPRIA shall only be required to offload the Goods at the delivery location.
- 11.2 The contractual address for delivery may not be varied without ESPRIA's agreement and any variation may entail additional carriage charges to the Customer.
- 11.3 Delivery will normally take place on the Working Day following the date of receipt of the Goods from ESPRIA's supplier. However, any dates quoted or specified for delivery are approximate only and ESPRIA shall not be liable for any reasonable delay in delivery howsoever caused. Time for delivery shall not be of the essence.
- 11.4 ESPRIA may make, and the Customer shall accept, partial deliveries of Goods. Each such delivery shall constitute a separate Contract. Failure by ESPRIA to deliver any one or more of the instalments in accordance with these Terms, or any claim by the Customer in respect of any one or more instalments, shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 11.5 If ESPRIA fails to deliver the Goods for any reason other than a cause beyond ESPRIA's reasonable control or the Customer's default and, accordingly, ESPRIA is liable to the Customer, ESPRIA's liability shall be limited to:
 - 11.5.1 resupplying the Goods at a date agreed between the parties; or
 - 11.5.2 the excess (if any) of the cost to the Customer (in the cheapest available market) of the same or (where the same is unavailable) equivalent goods to replace those not delivered over the price of the Goods set out in the ESPRIA original quote.
- 11.6 ESPRIA shall not be liable in any way for the consequences of any delay in delivery.
- 11.7 If the Customer fails to take delivery of the Goods, or fails to give ESPRIA adequate delivery instructions (otherwise than by reason of a cause beyond the Customer's reasonable control or by reason of ESPRIA's fault), then, without prejudice to any other right or remedy available to ESPRIA at law or under these Terms, ESPRIA may:
 - 11.7.1 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage, and/or
 - 11.7.2 make further attempts to arrange delivery, in which case the Customer shall be liable for all additional delivery costs, and/or
 - 11.7.3 sell the Goods at the best price reasonably obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for the shortfall below the price under the Contract.
- 11.8 When delivery is to take place at the Customer's premises the Customer shall be responsible for ensuring (a) that any necessary

lifting equipment, power and labour is available to enable the Goods to be off-loaded quickly and safely, (b) that a duly authorised person is present to accept delivery and to sign the delivery note and (c) that any restricted delivery hours and/or health and safety risks are notified to ESPRIA in writing prior to despatch.

- 11.9 Where Goods are to be installed or set-up on-site, the Customer shall provide ESPRIA's employees, agents and sub-contractors adequate access to the place of installation and free use of any necessary services or facilities.
- 11.10 Signature by the Customer of ESPRIA's delivery note, or ESPRIA's carrier's delivery sheet, or the issue by the Customer of a receipt for delivery, shall constitute conclusive proof of delivery. Any delivery receipt shall be deemed signed or issued by the Customer if signed by a person who is or appears to be an employee or agent of the Customer regardless of any subsequent allegation by the Customer that that person had no authority to sign delivery receipts.

12. PERFORMANCE OF SERVICES

- 12.1 The location for performance of the Services may not be varied without ESPRIA's agreement and any variation may entail additional charges to the Customer.
- 12.2 Any dates quoted for performance of the Services are approximate only and ESPRIA shall not be liable for any reasonable delay in performance howsoever caused. Time for performance shall not be of the essence.
- 12.3 ESPRIA may undertake, and the Customer may accept, partial performance of Services. Each such performance shall constitute a separate Contract. Failure by ESPRIA to perform any one or more of the instalments in accordance with these Terms, or any claim by the Customer in respect of any one or more instalments, shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 12.4 If ESPRIA fails to perform the Services for any reason other than a cause beyond ESPRIA's reasonable control or the Customer's default and, accordingly, ESPRIA is liable to the Customer, ESPRIA's liability shall be limited to (i) re-performing the Services on a date agreed between the parties or (ii) the excess (if any) of the cost to the Customer (in the cheapest available market) of procuring the provision of identical Services over the price of the Services.
- 12.5 ESPRIA shall not be liable in any way for the consequences of any delay in performance by the Customer or for reasons beyond its reasonable control. An extension of time to perform its obligations shall be granted to ESPRIA arising from such delay.
- 12.6 It shall be the Customer's responsibility to ensure that an impact review is undertaken in respect of the requirements of the Data Protection Act and where access to Systems containing Data of a personal or otherwise confidential nature, is needed, approval processes are in place to ensure that ESPRIA can be properly authorised to undertake the work required.
- 12.7 When performance is to take place at the Customer's premises the Customer shall be responsible for ensuring that a duly authorised person is present to acknowledge performance and to sign the service delivery note and/or job sheet.
- 12.8 Where Services are to be performed on-site, the Customer shall provide ESPRIA's employees, agents and sub-contractors adequate access to the place of performance and free use of any necessary services or facilities.
- 12.9 Unless otherwise agreed, where travel to or from site takes more than one hour then such travel time is included in the period agreed for performance of the Services.
- 12.10 Signature by the Customer of ESPRIA's service delivery note or job sheet shall constitute acceptance of satisfactory performance of the Services.
- 12.11 The Customer will be liable to reimburse ESPRIA for any loss and expense incurred caused by matters affecting the progress of the Services, including but not limited to the following:
 - 12.11.1 ESPRIA not having received in due time instructions, drawings or details from the Purchaser or its agents.
 - 12.11.2 The execution of other work by the Customer itself or by persons, firms or companies employed or otherwise

engaged directly or indirectly by the Customer, such as its other sub-contractors or the failure to execute such works.

12.11.3 The supply by the Customer or by persons, firms or companies employed or otherwise engaged directly or indirectly or nominated by the Customer of materials, equipment and other items which the Customer has agreed to provide for the Services or the failure to supply.

12.11.4 Failure of the Customer to give in due time access to the site.

12.11.5 Variations ordered by the Customer.

12.11.6 Suspension of the Services requested by the Customer.

13. WARRANTIES AND LIABILITY

- 13.1 Provided that payment has been made in accordance with these Terms, ESPRIA shall use all reasonable endeavours to extend to the Customer the benefit of such guarantees or warranties in relation to the Goods as may be extended to ESPRIA by the relevant manufacturers or distributors.
- 13.2 Except as otherwise stated in these terms, all conditions, warranties and innominate terms. (whether express or implied by statute, common law, conduct, trade custom or usage, or previous course of dealing or otherwise as to the satisfactory quality, fitness for purpose, description or otherwise of the goods or services) are hereby excluded to the fullest extent permitted by law.
- 13.3 Without prejudice to the generality of the foregoing clause, ESPRIA shall not be liable to the Customer for:
- 13.3.1 failure of the Goods to conform with the Contract, unless notified within two working days of delivery and provided that manufacturer warranties have not been breached;
- 13.3.2 partial loss or damage in transit by ESPRIA or its suppliers, unless (a) notified within two working days, or (b) noted on the carrier's delivery note and notified within fourteen calendar days, and (c) (in either case) it can be established to the reasonable satisfaction of ESPRIA and its carrier (upon collection and inspection of the relevant Goods and packaging) that the loss or damage occurred prior to delivery;
- 13.3.3 defects which could reasonably be attributed to improper use, improper storage, fair wear and tear, failure to observe anti-static and anti-virus precautions, abnormally hot, cold or humid operating conditions, failure to follow the manufacturer's instructions, fluctuation or failure of power supplies, lightning, telecommunications line failure or any other act, neglect or default of the Customer or any third party;
- 13.3.4 defects arising where any repair, modification, re-configuration or re-installation has been attempted in relation to the Goods by anyone other than ESPRIA or its approved representatives and in either case, has been agreed in writing by ESPRIA;
- 13.3.5 other defects, unless notified within two working days of delivery;
- 13.3.6 defective performance of any Services unless notified within five working days of performance.
- 13.4 If the Customer does not notify ESPRIA of any claim within the above time limits, the Customer shall not be entitled to reject the Goods or Services and shall be bound to pay the price as if delivery or performance had been in accordance with the Contract.
- 13.5 In the event of a valid claim, ESPRIA shall, at its option:
- 13.5.1 make good any deficiency (whether by making up any shortfall, arranging repair or obtaining replacements) or credit the Customer for the price paid for the deficient Goods; and/or
- 13.5.2 re-perform any Services or credit the Customer for the price paid for them.

13.6 ESPRIA shall not be liable for any loss or profit, loss of use, loss of contracts, business interruption, adverse effects on performance or operability of other computer hardware or software, or any indirect, special or consequential loss or damage arising, or alleged to have arisen, out of any act or omission of ESPRIA, whether negligent or otherwise.

13.7 Subject to clause 13.6 and 13.8 and save in respect of a deliberate breach of a Contract by ESPRIA, ESPRIA's maximum aggregate liability to the Customer under a Contract, whether arising in, contract, breach of statutory duty, negligence, or otherwise shall not exceed the net price invoiced to the Customer for the Goods and/or Services under the applicable Contract giving rise to the liability, in respect of any occurrence or series of occurrences.

13.8 Nothing in these terms shall have the effect of excluding or limiting ESPRIA's liability for death or personal injury resulting from its negligence or any other liability that cannot be excluded by applicable law. Where the Goods are sold and/or the Services supplied under a consumer transaction (as defined by the Sale of Goods Act 1979), the statutory rights of the Customer are not affected by these Terms.

14. DATA BACKUP

- 14.1 It is the responsibility of the customer to ensure that current backup copies of all computer software and data are maintained. ESPRIA shall not be liable for any loss of, or damage to, software programs or data of the Customer or third parties, occurring:
- 14.1.1 during or as a consequence of any upgrade, installation, repair or other Services undertaken by ESPRIA in relation to the Goods or in relation any other equipment of the Customer or third parties, or
- 14.1.2 in consequence of the installation or use of the Goods, or any part of them.

15. PASSING OF TITLE AND RISK

- 15.1 Under no circumstances shall title to any computer software be transferred to the Customer.
- 15.2 Notwithstanding that title may not have passed, risk of damage to, or loss of, the Goods shall pass to the Customer:
- 15.2.1 in the case of Goods where delivery occurs at ESPRIA's premises, at the time when ESPRIA notifies the Customer that the Goods are available for collection, or
- 15.2.2 in the case of Goods to be delivered otherwise than at ESPRIA's premises, at the time of delivery, or if the Customer wrongfully fails to take delivery of the Goods, the time when ESPRIA has tendered delivery.
- 15.3 Notwithstanding delivery and the passing of risk in the Goods, title to the Goods shall remain with ESPRIA until such time as ESPRIA has received payment for the Goods in accordance with the terms of the Contract.
- 15.4 ESPRIA shall be entitled to sue for the price of the Goods notwithstanding that title has not passed or shall have the right by notice in writing to the Customer at any time after the agreed delivery date to pass title to the Customer as from the date of notice.
- 15.5 Until such time as title to the Goods passes to the Customer, the Customer shall hold the Goods as ESPRIA's bailee and shall keep the Goods secure, in complete and saleable condition, separate from those of the Customer and third parties and clearly identified as ESPRIA's property. The Customer shall not attach or affix the Goods to any premises without the prior written consent of ESPRIA.
- 15.6 Until title passes to the Customer, ESPRIA shall be entitled to require the Customer immediately to deliver up the Goods or any part of them to ESPRIA. If the Customer fails to do so, then ESPRIA (and its agents) shall be entitled to repossess the Goods and to enter upon any premises owned or controlled by the Customer where the Goods are stored, or where ESPRIA reasonably believes that the Goods are stored, for the purpose of taking such possession. Where the Goods have been installed or attached to any other property ESPRIA shall be entitled to detach the Goods (making good any damage thereby caused). Such redelivery or

- retaking of possession shall be without prejudice to the obligation of the Customer to purchase the Goods in accordance with the Contract.
- 15.7 If the Customer sells the Goods before ESPRIA has received payment for them, and provided that such Goods have not been inextricably mixed with any goods belonging to or annexed to any real property of the Customer or any third party, then the Customer shall sell for the account of ESPRIA and shall hold the proceeds of sale as trustee for ESPRIA and shall keep all such proceeds separate from any money or property of third parties. As between the Customer and its the customer, the Customer shall sell in the Customer's own name as principal and shall have no authority to enter into any contract on behalf of ESPRIA.
- 15.8 The Customer shall not be entitled to charge by way of security or otherwise pledge any of the Goods which remain the property of ESPRIA and if the Customer shall do, or purport to do, so then (without prejudice to any other right or remedy of ESPRIA) all sums owing by the Customer to ESPRIA shall immediately become due and payable.
- 16. LIEN AND SET-OFF**
- 16.1 ESPRIA shall have a particular and general lien on all goods and property of the Customer in ESPRIA's possession in respect of all sums due from the Customer to ESPRIA but unpaid at any time. ESPRIA shall be entitled, on giving 14 days' written notice to the Customer, to dispose of such goods or property and to apply the proceeds towards the reasonable and proper costs of such disposal and reduction of such debt and thereafter to account to the Customer for any remaining balance.
- 16.2 In the event of there being any sums due from ESPRIA to the Customer on any account whatsoever then, notwithstanding any rule of law or course of conduct or contract to the contrary, any right which the Customer may have against ESPRIA to set off sums so due, or claimed to be due, from ESPRIA to the Customer against the price of the Goods or Services is hereby excluded.
- 17. RETURNS**
- 17.1 Goods may not be returned without the prior agreement of ESPRIA and the issue by ESPRIA of a returns authorisation number. All returns must be sent to ESPRIA's premises at the Customer's risk and expense within 48 hours of issue of the returns authorisation
- 17.2 Acceptance of delivery of Goods returned without the issue of a returns authorisation number shall not constitute acceptance of the validity of the return. Such Goods shall remain at the Customer's risk and ESPRIA shall have no obligations in respect of them.
- 17.3 Goods returned following an incorrect Customer order, or due to incorrect shipment by ESPRIA, must be returned unused and unopened, in clean and re-saleable condition, complete with all original discs, manuals, warranty documents, cables and other items supplied with them and securely packed in their original packaging. They shall remain at the Customer's risk until so returned. If they are not so returned ESPRIA may (in its absolute discretion):
- 17.3.1 reject the return, in which case it shall be the responsibility to the Customer to arrange collection and the Goods shall remain at the Customer's risk, or
- 17.3.2 accept the return and invoice the Customer for the cost of replacing the missing items and/or the amount of any diminution in resale value.
- 17.4 All components and parts required to be repaired or replaced due to inadequate "operator maintenance" where applicable or for reasons of undue wear and tear shall be paid for by the Customer in addition to the maintenance charges set out in the Schedule at ESPRIA' then current prices.
- 17.5 ESPRIA does not undertake to replace consumable items which may include, but are not limited to, power and data cables, ink cartridges, toners and fusers, removable recorded media and data thereon, keyboards, mice and batteries under this agreement. All consumables can be procured on behalf of the Customer, subject to formal order approval.
- 17.6 Goods returned as faulty must be complete with all original discs, manuals, warranty documents, cables and other items supplied with them and securely packed in their original packaging. Where such Goods are not so returned and ESPRIA incurs any charge from the manufacturer or distributor, it shall be entitled to levy an equivalent charge against the Customer. Such Goods shall remain at the Customer's risk unless or until both a replacement is obtained from, and the faulty item is accepted for return by, the manufacturer or distributor. Risk in any such replacement shall pass to the Customer on delivery. Any advance replacement goods supplied to the Customer in anticipation of acceptance of the faulty Goods by the manufacturer or distributor are supplied without obligation on a goodwill basis and, if the fault is not subsequently verified, ESPRIA shall be entitled to invoice the Customer for the normal retail price of the replacement item. Where no fault is found, ESPRIA shall be entitled (whether or not an advance replacement has been supplied) to reject the return and it shall be the responsibility of the Customer to arrange collection.
- 17.7 Where any return is rejected, notification of rejection shall be effective by written notice, which includes fax and email and the original payment terms shall be unaffected. ESPRIA may (in its discretion) return such Goods, and Goods returned without authorisation, to the Customer and charge for carriage at its normal rates.
- 17.8 Where Goods are returned due to an incorrect Customer order, or where they are returned as faulty but no fault is found, ESPRIA shall be entitled to levy a handling charge equal to 25% of the price of the Goods plus carriage charges.
- 18. EXPORT RESTRICTIONS**
- 18.1 The Customer acknowledges that the Goods may be subject to export and re-export restrictions imposed by UK, US or other countries' laws. The Customer will not export any Goods, or resell them to a purchaser whom it knows (or has reasonable grounds to suspect) will export them, without first obtaining all such written consents, licences, copy licences or authorisations as may be required by any applicable United Kingdom, United States, European Union or other applicable laws or regulations.
- 19. TELECOMMUNICATIONS REQUIREMENTS**
- 19.1 Where the Goods are to be connected to any telecommunications network, it shall be the sole responsibility of the Customer to ensure compliance with all applicable regulations of the telecommunications provider relating to data transmission speeds or otherwise.
- 20. FORCE MAJEURE**
- 20.1 ESPRIA shall not be liable to the Customer for any delay or failure by ESPRIA to perform its obligations under the Contract if such delay or failure arises from any unforeseen cause beyond the reasonable control of ESPRIA. This includes, but is not limited to, fire, flood, lightning, explosion, storms, shortages of materials, utility or communications failures, war, civil disturbance, restrictions or orders of any parliament, government, governmental or European Community agency or local or public authority, import or export restrictions, impossibility of the use of railways, shipping, aircraft, motor transport and failure of power supplies.
- 21. CUSTOMER'S INSOLVENCY / DEFAULT**
- 21.1 If the Customer is in breach of any of its obligations under the these Terms, or makes any voluntary arrangement with its creditors, or becomes subject to an administration order, or becomes bankrupt or goes into liquidation (other than for the purposes of amalgamation or reconstruction), or an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer, or any of the assets of the Customer are subject to any levy or distraint, or the Customer ceases or threatens to cease to carry on business, or ESPRIA reasonably apprehends that any of the events mentioned above is about to occur and notifies the Customer accordingly, then, all sums owing by the Customer to ESPRIA shall immediately become due and payable and, without prejudice to any other right or remedy available to ESPRIA, ESPRIA shall be entitled to cancel the Contract

- and/or suspend any further deliveries without any liability to the Customer notwithstanding any previous agreement or arrangement to the contrary.
- 21.2 If the Customer becomes insolvent, then ESPRIA shall have the right to stop Goods in transit and to take and retain possession of them until payment.

22. HEALTH & SAFETY

- 22.1 Where any employee, agent, or sub-contractor of ESPRIA is admitted to the Customer's premises pursuant to the Contract, the Customer shall take all necessary measures to safeguard the health and safety of such persons and shall indemnify ESPRIA against all claims, costs and expenses resulting from any breach of this condition.

23. NOTICES / SERVICE

- 23.1 Unless otherwise stated, any notice to be given under these Terms shall be in writing to a party's last known address and shall be given either (a) by first class post and shall be deemed served at the expiration of two Working Days from the date of posting or (b) by email to contracts@espria.com and shall be deemed served one hour after transmission provided that if notice is served on a day that is not a Working Day, the notice shall be deemed served on the immediately following Working Day.
- 23.2 Service of any notice shall be affected by delivering the same to the party to be served at its registered office (in the case of a company) or its principal place of business in the United Kingdom (in other cases) or to such other address as may from time to time be notified in writing by the party to be served or its solicitors.
- 23.3 For the avoidance of doubt, this clause 23 shall not apply to the service of notice in respect of any proceedings or other documents in any legal action.

24. SUB-CONTRACTING

- 24.1 ESPRIA may assign or sub-contract the whole or any part of the Contract to any person, firm or company, but shall remain responsible for any act or omission of its subcontractors.
- 24.2 ESPRIA will provide the client with notice of any intention to sub-contract any element of the contracted works under this service.
- 24.3 Members of staff are some of the most valuable assets of an organisation accordingly it is mutually understood that (save for any general recruitment campaign that does not specifically target any employees of the other party) neither party shall solicit or endeavour to entice away from the other party any person employed by the other party or procure that such a person be engaged or employed by any other business which competes with any business carried on by the other party. In the event should occur whether inadvertently or otherwise within a period of 6 months of termination date or completion date of a Contract, it is agreed that the other party shall be entitled to receive a fee to reflect the true cost of recruitment, this shall be the equivalent to 40% of the annual remuneration package of the individual employed.

25. COMPLIANCE WITH LAW

- 25.1 We believe ourselves to operate in an ethical manner and expect all in our supply chain and Customer's to do the same. The Customer warrants that it does and shall at all times:
- 25.1.1 Comply with the Anti-Bribery Act 2010 and;
- 25.1.2 Comply with the Modern Slavery Act 2015; and
- 25.1.3 Comply with all applicable laws and regulations in force from time to time.

26. GENERAL DATA PROTECTION REGULATIONS

- 26.1 Both parties will comply with all applicable requirements of the Data Protection Legislation as defined in the General Data Protection Regulations. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under any new Data Protection Legislation. Where appropriate further details regarding the responsibilities and obligations of both parties are defined in the separate Data Processing Agreement which will be signed by both parties.

27. GENERAL

- 27.1 No variation to these Terms shall be effective unless it is in writing and signed by the parties authorised representatives.
- 27.2 No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver or that of any other right or remedy, nor shall it preclude or restrict further exercise of that or any other right or remedy.
- 27.3 If any provision of the Contract is found by any court to be void or unenforceable, such provision shall be deemed to be deleted from the Contract with effect from the date of the decision and, insofar as they remain capable of having effect, the remaining parts of the provision in question, and the other provisions of the Contract, shall continue in full force and effect notwithstanding such deletion.
- 27.4 The Customer may not assign or transfer any of its rights or obligations hereunder.
- 27.5 The construction, validity and performance of the Contract shall be governed in all respects by English law and the parties agree to submit all disputes to the exclusive jurisdiction of the English courts.
- 27.6 Third Party Rights Act 1999. No rights enforceable by virtue of this act shall be created by this contract.

28. BACKGROUND SCREENING

- 28.1 ESPRIA shall ensure that the Service Personnel have:
- 28.1.1 provided ESPRIA with a copy of their passport and work visa (where applicable) or other documentary evidence as proof of their legal right to work in the UK;
- 28.1.2 provided ESPRIA with sufficient photographic evidence of their identity, so that ESPRIA is able to verify that there is a true likeness between the individual and the photographic evidence they have supplied;
- 28.1.3 undergone a credit and criminal history check, the results of which have been considered by ESPRIA to determine whether the individual is a fit and proper person to perform the services;
- 28.1.4 provided their employment history for the previous 5 years, the results of which have been reviewed by ESPRIA and if required further investigation has been undertaken;

29. INSURANCE

- 29.1 ESPRIA shall maintain in force at its own cost such insurance policies as are appropriate and adequate having regard to its obligations and liabilities under this agreement.

30. WHISTLEBLOWING

- 30.1 ESPRIA shall maintain, enforce and monitor compliance with appropriate whistle-blowing policies cognisant of its obligations under this agreement.