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Standard Terms and Conditions for Supply of Goods and Services

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Terms and Conditions for Supply of Goods and Services

1 Definitions and Interpretation

These Terms and Conditions shall be subject to the following rules of interpretation and definitions:

- a) In the event of any inconsistency between these terms and conditions and the Quotation, the Quotation shall prevail. For the avoidance of doubt this shall only apply to such inconsistency or conflict.
- b) Bell and the Customer may each be referred to herein as a "**Party**" and together as the "**Parties**".
- c) A "subsidiary" or "holding company" shall be in accordance with Section 1159 of the Companies Act 2006 or in any subordinate legislation made under the Companies Act 2006;
- d) "**Bell**" means Bell Microsystems Limited, trading as Bell Integration, whose registered address is New Hampshire Court, St Pauls Road, Portsmouth, United Kingdom, PO5 4AQ, who is the Goods and/or Services provider;
- e) "**Bespoke Materials**" means all materials (including without limitation any software, user guides and works) conceived, prepared, created or designed by Bell, pursuant to the Contract;
- f) "**Charges**" are the sums payable by the Customer under the applicable Contract;
- g) "**Confidential Information**" includes all information disclosed by a disclosing party pursuant to the Contract including but not limited to commercial, financial, technical, trade secrets, industrial secrets, business plans, product development plans, product specifications and/or Contract terms, pricing information, product evaluation, testing analysis and results, customer information in whatever form, together with all analyses, compilations, data, studies, reports, summaries or other information, prepared by the receiving party which are derived from or include in whole or part the Confidential Information of the disclosing party, its suppliers or customers, or the fact that such information has been made available;
- h) "**Contract**" means each agreement for the supply of Goods and Services, comprising of these terms and conditions and the applicable Quotation and/or SOW.
- i) "**Customer**" is the company as specified within the applicable Contract;
- j) "**Customer Systems**" means computers, software, hardware, printers, storage devices and computer networks operated by the Customer;
- k) "**Data Subject**" means an identifiable natural person who can be identified, directly or indirectly, in particular, by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- l) "**Deliverable**" means the deliverable detailed in the Contract, which may include, data storage, reports and/or other relevant documents;
- m) "**Force Majeure Event**" is any event which is beyond either Party's control. This shall include, however is not limited to; acts of God, floods or earthquakes, war, civil commotion, terrorist attack, imposition of a sanction, embargo or breaking off a diplomatic relation. This shall exclude strikes or any other forms of industrial action by the employee, agents, or Sub-Contractors of that Party;
- n) "**Goods**" means the goods to be provided, as specified in the applicable Contract;
- o) "**Good Industry Practice**" means the exercise of reasonable skill, care, prudence, efficiency, foresight and timeliness which would reasonably be expected from a person properly skilled and experienced in providing products and/or services similar to the Services;
- p) "**Intellectual Property Rights (IPR)**" means (without limitation) present and future patents, trade-marks, registered designs, including applications for the foregoing and related rights, database rights, rights in semiconductor topographies;
- q) "**Location**" means the address(es) for delivery of the Goods stipulated in the applicable Contract;
- r) "**Master Services Agreement**" means the agreement for professional services, including but not limited to consultancy services;

- s) **“Personal Data”** means any data that is considered as Personal Data under the Data Protection Legislation, specifically information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person; **“Personnel”** means the employees, agents and representatives of Bell or any Sub-Contractors engaged in providing the Goods and Services;
- t) **“Pre-Existing Materials”** means all materials (including IPR, data and Confidential Information) owned by either Party or any third party prior to the commencement date of the Contract;
- u) **“Quotation”** means the quotation issued by Bell for the supply and purchase of Goods and Services;
- v) **“Services”** means all or any part of the Services to be provided as defined in the Contract. Services shall be provided on a fixed price or time and materials basis;
- w) **“Site”** means the premises where the Goods and/or Services are to be provided;
- x) **“Statement of Work (SOW)”** means the schedule to these terms and conditions, which upon completion and signature by both Parties shall, together with these terms and conditions, form the entire Contract between the Parties;
- y) **“Sub-Contractor”** means a third-party supplier engaged by Bell to supply the Goods and/or Services to the Customer;
- z) **“Warranty Period”** means the manufacturer’s warranty period if applicable to the Goods supplied under the Contract.

2 Scope of Terms and Conditions

- 2.1 These terms and conditions shall apply to the exclusion of any terms or conditions contained or referred to in any purchase order or other documentation submitted by the Customer, in correspondence or implied by trade, custom or course of dealing.
- 2.2 These terms and conditions shall not apply to any Goods or Services requested by the Customer which the Parties intend to be provided under a separate Master Services Agreement.

3 Form and Acceptance of Order

- 3.1 Each time the Customer wishes to purchase Goods or Services it will issue Bell a purchase order which references the Quotation and/or SOW.
- 3.2 The Customer acknowledges that lead times may apply for the supply of Goods and Services. Both Parties shall co-operate in order to meet the other Party’s reasonable demands and expectations.
- 3.3 The Customer may not cancel in whole or any part of a Purchase Order. In the event of a cancellation by the Customer, in whole or in part of a purchase order, the Customer shall be liable to pay the full price of such order and any reasonable loss or expenses incurred by Bell due to such cancellation.

4 Charges and Payment Terms

- 4.1 The Charges within the Quotation are exclusive of VAT which shall be charged at the prevailing rate.
- 4.2 The Charges shall be due in full within thirty (30) days from date of invoice.
- 4.3 Bell shall be reimbursed by the Customer, for all reasonable travel and accommodation expenses incurred in performing the Services.
- 4.4 The Customer may withhold payment of Charges that it disputes in good faith, provided that it notifies Bell within ten (10) days of receipt of invoice. All undisputed Charges shall be payable in accordance with clause 4.2.
- 4.5 Failure to make payment within the specified period shall incur interest at a rate of 4% above the base rate of Barclays Bank Plc. This shall be accrued on a daily basis from the date when payment becomes due and compounded quarterly up until cleared funds have been received in the bank nominated by Bell.
- 4.6 Bell shall be entitled to suspend the Services upon written notice to the Customer until payment of all outstanding Charges have been made in full.

5 Delivery

- 5.1 The Goods shall be deemed delivered if:
- 5.1.1 delivered by Bell, upon arrival or completion of unloading of the Goods at the location;
 - 5.1.2 delivered by a carrier, on delivery of the Goods by Bell, to the carrier; or
 - 5.1.3 collected by the Customer, when Bell makes the Goods available for collection at Bell's or the carrier's premises.
- 5.2 Bell shall not be liable for any delay in, or failure of delivery caused by:
- 5.2.1 the Customer's failure to (a) make the location available; (b) prepare the location in accordance with Bell's instructions, or as required for delivery or installation of the Goods; or (c) provide Bell with adequate instructions for delivery and installation; or
 - 5.2.2 the Customer's failure to collect the Goods from Bell's premises.

6 Passing of Property

- 6.1 Risk in Goods shall pass to the Customer upon delivery, or the dispatch of such Goods to the nominated place of delivery as specified by the Customer, whichever is earlier;
- 6.2 No title shall pass until the Customer has paid the Charges in full (including any interest for late payment).
- 6.3 In the event of failure to pay the Charges, Bell shall be entitled to recover the Goods (or such part thereof as Bell may determine) and shall permit Bell, its employees and/or agents to enter upon the Customer's premises for the purposes of recovery and shall be liable to pay any costs associated with the removal of the Goods.

7 Warranty

- 7.1 Bell warrants that it will provide the Goods and Services in accordance with Good Industry Practice by suitably trained and qualified Personnel who have the requisite skill, qualification and experience.
- 7.2 The Customer understands and acknowledges that Bell is not a manufacturer of Goods. Bell shall use all reasonable endeavours to procure that the benefit of the manufacturers 'Warranty Period' passes onto the Customer.
- 7.3 In the event of the Customer becoming aware of any defect in the Goods during the Warranty Period, the Customer shall promptly supply Bell with written particulars of such defect and provide access as is necessary to enable Bell to ascertain and verify the nature and cause of the defect.
- 7.4 The warranties in this clause 7, shall not apply where such defect is caused in whole (or in part), by any alteration or addition to the Goods (other than by Bell) or by use or storage of the Goods in a manner reasonably considered by Bell or the manufacturer of the Goods, to be improper or for purposes for which the Goods were not designed, by faulty installation, maintenance or repair by the Customer or any third party at the Customer's request.
- 7.5 Bell disclaims to the fullest extent permitted by law, all warranties, conditions and other terms in relation to the Goods and Services, whether implied by law, statute, custom or course of dealing. Including without limitation, any warranties regarding quality, merchantability or fitness for purpose.

8 Personnel

- 8.1 The Personnel shall remain under the direct control of Bell, however whilst the Personnel are at the Customer's Site, Bell shall use all reasonable endeavours to procure the Personnel comply with the Customer's reasonable instructions.
- 8.2 Bell shall be entitled to replace Personnel assigned to perform the Services during the term of the Contract. Bell shall use reasonable endeavours to replace such Personnel with Personnel of commensurate skill and expertise.

9 Customer Obligations

- 9.1 The Customer shall provide Bell, free of charge, access to the Site, Personal Data, Customer Systems, documentation, computer time and access, facilities and working space as reasonably necessary for providing Goods and Services.
- 9.2 The Customer shall remain responsible for and shall pay all costs (including, without limitation, repair and maintenance costs) in connection with the Customer Systems and Personal Data. Customer shall hold harmless and indemnify Bell if Bell suffers loss and/or is unable to perform its obligations hereunder, either

in whole or in part, as a result of the removal of the Customer's Systems or Personal Data or due to any failure or fault, save in circumstances where this arises as a consequence of Bell's negligence.

- 9.3 Where Bell is required to carry out any installation, the Customer shall comply with all requirements stipulated by Bell in order to prepare the Site.

10 Confidentiality

- 10.1 Each Party shall protect the Confidential Information of the disclosing party and, in doing so, must use no less than the equivalent degree of care that such Party applies to its own proprietary or secret information which shall not be less than a reasonable standard of care.
- 10.2 The receiving party shall not and procure that its employees and any third parties shall not; disseminate, copy, employ, exploit, adapt, modify or in any other manner whatsoever utilise the Confidential Information other than strictly for the performance of the Services. For the avoidance of doubt, the receiving party shall be liable for all acts or omissions of its employees and/or third parties.
- 10.3 The obligations of confidentiality pursuant to this clause 10 do not apply to any Confidential Information that is required to be disclosed by a court of competent jurisdiction or operation of law, to the extent of such requirement only, provided the receiving party, where reasonably practicable provides the disclosing party prior notice of such disclosure.

11 Intellectual Property Rights

- 11.1 Each Party retains ownership of any Pre-Existing Materials. Unless expressly stated in the Contract, nothing in these terms and conditions or use of the other Party's IPR shall be construed as the transfer or grant of any interest in any such rights.
- 11.2 The Customer shall retain all IPR in any Bespoke Materials created by Bell pursuant to the Contract.
- 11.3 The Customer grants to Bell a non-exclusive royalty-free licence to use the Customer's Systems and Personal Data to the extent reasonably required to perform the Services.
- 11.4 For the avoidance of doubt, any licence granted pursuant to this clause 11 shall terminate with immediate effect upon expiry or termination of the Contract.

12 Intellectual Property Rights Infringement

- 12.1 Each Party shall indemnify the other and hold it harmless on demand, from and against all actions, claims, liabilities, demands, proceedings, costs (including reasonable legal costs) suffered or incurred by the other Party by reason of claims that the possession or use of the other Party's IPR infringes the IPR of a third party.
- 12.2 Bell shall have no liability for any IPR infringement claim to the extent that it is based on (i) the use or combination with software, hardware or other materials not recommended by Bell, provided such infringement would not have arisen but for such use or combination; or (ii) use in a manner other than that for which it was designed or contemplated, or (iii) any unauthorised modification of the Goods/Deliverables or Services by any other personal not party to the Contract; or (iv) any compliance with designs, plans or specifications provided by Customer.

13 Limitation of Liability

- 13.1 Neither Party seeks to exclude or restrict any legal liability it may have for breach of IPR, breach of Confidentiality, death or personal injury resulting from negligence of the other Party, its employees, agents or Sub-Contractors.
- 13.2 In no event shall Bell be liable for any (i) indirect, incidental, special or consequential damages (ii) including but not limited to; loss or corruption of data, loss of anticipated savings, loss of business, economic loss, loss of profits, loss of goodwill whether arising from Bell's negligence or otherwise. The exclusions contained herein shall apply irrespective of Bell being advised of such loss or damages.
- 13.3 Bell's aggregate liability shall be limited to one hundred percent (100%) of the total Charges paid and payable pursuant to the Contract.

14 Data Protection

14.1 Each Party will:

- a) only use any Personal Data given to it by the other Party to carry out its obligations under this Contract and for its own legally justified records in relation to the Contract;
- b) keep the Personal Data confidential other than where it is reasonably necessary for the purposes of carrying out its obligations under the Contract and ensure that all transfers of Personal Data are secure;
- c) report to the other Party any unauthorised access to, loss, theft or corruption of the Personal Data as soon as it comes to its attention;
- d) subject to any disclosure that is necessary to carry out its obligations under the Contract, when carrying out those obligations, use reasonable, regularly reviewed and proportionate measures to keep the Personal Data secure and prevent the unauthorised disclosure of the Personal Data;
- e) use reasonable, regularly reviewed and proportionate measures to aid the other Party in complying with its obligation to respond to any requests by a Data Subject whose Personal information falls within the definition of Personal Data, in exercising their rights under Chapter III GDPR and assist the other Party in its compliance with its obligations at Articles 33 to 36 GDPR taking into account the nature of the Contract and the Personal Data;
- f) where Personal Data is to be transferred, only use Sub-Processors that the other Party has approved and ensure that such Sub-Processors enter into terms with it that are no less onerous than these obligations with regards to the use of the Personal Data for the fulfilment of the Sub-Contracted services;
- g) on the written request of the other Party, delete or return all the Personal Data held by it after the termination of the Contract unless it is required to retain or store the Personal Data for legal purposes;
- h) following a reasonable written request, provide the other Party with all data that is reasonably necessary to demonstrate compliance with the provisions of this clause 14 and allow the other Party occasional inspections of its premises where Personal Data is processed, to be conducted by the other Party or its auditor. Any such inspection shall be limited to reviewing the Personal Data and the technical and organisation measures in place to maintain the privacy and security of the Personal Data.

15 Termination

15.1 Either Party may terminate the Contract at any time by notice in writing if the other Party:

- a) is in material breach of any of its obligations under the Contract and (if the breach is capable of remedy) fails to remedy the breach within thirty (30) days;
- b) is unable to pay its debts as they mature, or suffers the appointment of a receiver, administrative receiver or administrator or the whole or any part of its assets or is the subject of any bankruptcy proceedings.

15.2 For the avoidance of doubt, the SOW may not be terminated by the Customer before completion of the Services.

16 Insurance

16.1 The Customer agrees to take out and maintain such insurance as is commercially prudent and reasonable with a reputable insurance company, including but not limited to employer's liability, public liability and professional indemnity. The Customer shall supply to Bell on request written evidence that such cover is in force for the required period.

17 Assignment and Sub-Contracting

- 17.1 The Customer shall not assign the Contract without Bell's prior written consent, such consent not to be unreasonably withheld or delayed.
- 17.2 Bell shall be entitled to assign or Sub-Contract the Contract to any third party that it deems is appropriately skilled to provide the same Services. Bell shall remain primarily liable to the Customer for the acts or omissions of any Sub-Contractors.

18 Force Majeure

- 18.1 Bell cannot accept any liability incurred in relation to the supply of Goods and Services where Bell's obligations are prevented, frustrated, impeded and/or delayed because of a Force Majeure Event.
- 18.2 The Customer shall still be liable to pay all outstanding Charges during a Force Majeure Event.

19 Non-Solicitation

- 19.1 The Parties undertake for the term of the Contract and for a period of twelve (12) months thereafter that they shall not either directly or indirectly employ (whether as employee or consultant) solicit or entice away the employees of the other Party.

20 General

- 20.1 If any clauses of the Contract are deemed or found to be invalid or unenforceable by a court of competent jurisdiction, such clauses shall be deemed omitted, all other clauses shall remain in full force and effect.
- 20.2 No variation to the Contract shall be valid unless it is in writing and signed by a duly authorised representative of each of the Parties.
- 20.3 Nothing in the Contract shall be construed as creating a partnership or joint venture of any kind between the Parties, or as constituting either Party as the agent of the other for any purpose whatsoever and neither Party shall have the authority or power to bind the other Party, or to Contract in the name of, or to create a liability against, the other Party in any way or for any purpose.
- 20.4 These terms and conditions, together with the SOW/Quotation and any document expressly referred to herein, contains the entire agreement between the Parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral between the Parties.

21 Governing Law

- 21.1 These terms and conditions and the Contract shall be governed by, and construed in accordance with, the laws of England and Wales and each Party hereby submits to the exclusive jurisdiction of the English Courts.