



Jennings Walsh
Managed & Cloud IT Services

General Terms & Conditions

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General

1. DEFINITIONS AND INTERPRETATION

In these Conditions, the Rate Schedule and every Quote, Order, Plan, Contract, or other arrangement in connection with the supply of Goods or Services by Jennings Walsh Ltd the following words have the following meanings:

"After Hours" means from 17:30 - 09:00 hours Monday to Friday and all-day Saturday and Sunday, including Public Holidays

"Business Day" means a day other than a Saturday or Sunday on which banks are open for business in London;

"Business Hours" means Monday to Friday from 09:00 to 17:30 hours excluding Public Holidays;

"Client", "Customer", "You" or "Your" means a person who seeks or obtains a quote for, or who orders, Goods or Services from Us, and includes both a person whose name is on the Order or on an email attached to which is an order, a person who places an order, and a person on whose behalf an Order is placed or on whose behalf it appears and order is placed, and in any case each of their heirs, successors and assigns;

"Conditions" means these terms and conditions;

"Contract" means the written agreement or arrangement we have with You in respect of providing our Services;

"Goods" means any goods and/or services sourced by Us or provided by Us in connection with any such goods and/or services including computer hardware and Software and any goods or services provided in connection with any of those things;

"Notice to Terminate" means a written request to terminate the Contract in accordance with clause 4 of these Conditions;

"Order" means any order requested by You to Us for Goods or Services in any form;

"Period" means a particular number of half-days, days, weeks, fortnights, months, or any other period, as may be agreed between Us and the You as the period during which some Services will be provided;

"Plan" means any arrangement between Us and You (whether alone or in conjunction with any other person) for Services (including unlimited support) and/or the provision of Goods provided by Us under an arrangement in connection with Work agreed to be done or progressed for or on behalf of You or any other person at Your request, including as set out in a Plan Schedule;

"Plan Schedule" means the key terms applicable to Plans as set, and as may be varied by Us, from time to time in its absolute discretion without notice to You;

“Public Holidays” means any day which is a public holiday throughout the United Kingdom;

“Quote” means the written itemised invoice documenting the Work carried out by Us and provided to You;

“Rates” means the hourly rates and other charges for Services (including any call-out fees and any Return/Cancellation Fees) set out in the Rates Schedule, a Plan, Plan Schedule, Quote, contract or arrangement entered into by Us and You or in these Conditions, and includes any monies payable to Us on a quantum meruit basis for any work it has done;

“Rate Schedule” means the schedule of rates, charges and conditions for Our Services as set, and as may be varied, from time to time in its absolute discretion without notice to You;

“Reasonable Assistance Limits” has the meaning set out in clause 17.2;

“Return/Cancellation Fee” means a fee charged pursuant to clause 12.5 as set by Us from time to time;

“Service request” means a request for service such as adds, moves, changes and technical assistance;

“Services” means the provision of any services by Us including Work, advice and recommendations;

“Software” includes software and any installation, update, associated software and any services provided in connection with any of these things;

“The Company”, “Us”, “Our” or “We” means Jennings-Walsh Ltd (Company No. 11416766) registered at 25 Goodlass Road, Liverpool, Merseyside, England, L24 9HJ and its employees, agents, heirs, successors and assignees;

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994.

and

“Work” means any labour carried out, whether or not in connection with Our Services, or for the purpose(s) of, You or Your use or benefit, and includes testing, troubleshooting, installation and configuration of new equipment or software, consulting, scoping, planning, documenting and quoting for complex items.

In these Conditions, the Rate Schedule and every Quote, Order, Plan, contract, or other arrangement in connection with the supply of Goods or Services by Us, unless the contrary intention appears:

Words denoting the **singular** number only **shall include the plural** number and vice versa;

Reference to **any gender shall include every other gender**;

Reference to **any Act of Parliament, Statute or Regulation shall include any amendment** currently in force at the relevant time and any Act of Parliament, Statute or Regulation enacted or passed in substitution therefore;

Headings and words put in **bold** are for convenience of reference only and **do not affect the interpretation or construction** of these Conditions;

All references to currency are to **Great British Pounds (GBP / £)**;

A reference to time is to **Greenwich Mean Time (GMT)**;

A reference to an **individual or person includes a corporation**, partnership, joint venture, association, authority, trust, state or government and vice versa;

A reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to these Conditions;

A recital, schedule, annexure or description of the parties forms part of these Conditions;

A reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions), as amended, novated, supplemented or replaced from time to time;

Where an expression is defined, **another part of speech or grammatical form of that expression has a corresponding meaning**;

A reference to **"includes"** means **includes without limitation**;

A reference to **"will"** imports a condition not a warranty; and

2. APPLICATIONS OF THESE CONDITIONS

These Conditions are deemed to be incorporated in and are applicable to the terms of every Quote, Order, Plan, Contract, or other arrangement in connection with the supply of Goods and/or Services by the Company to You.

Any variation to these Conditions shall be agreed by Us in writing.

The invalidity or enforceability of any one or more of the provisions of these Conditions will not invalidate, or render unenforceable, the remaining provisions of these Conditions.

3. COMMITMENT TERM

- 3.1 The minimum term You require Our Services is outlined in Our Quote and/or Contract with You, which commences once the Contract has been executed from the first Business Day of the next month.
- 3.2 The Commitment Period may only cease upon the Company's receipt of a Notice to Terminate. Any absence of the same, shall be deemed by Us as an automatic renewal of the Contract for a further Commitment Period.

4. TERMINATION

- 4.1 You have the right at any time to terminate Your Contract by serving Us with a Notice to Terminate. Any Notice must be in writing and not be received less than ninety (90) days prior to the last Business Day of the Committed Term.
- 4.2 Any Notice to Terminate must be set out in the prescribed form below:
 - 4.2.1 addressed in writing to the Company;
 - 4.2.2 include reasons for termination;
 - 4.2.3 state the date you wish to terminate Your Contract; and
 - 4.2.4 be signed by a Director or other company decision maker.
- 4.3 You may serve thirty (30) days written notice to terminate Your Contract if We:
 - 4.3.1 Fail to fulfil any material aspect of Our obligations in line with these Conditions and do not remedy any such failure within thirty (30) days of receipt of such written notice.
 - 4.3.2 Breach any material term or condition of the Contract and fail to remedy such breach within thirty (30) days of receipt of such written notice.
 - 4.3.3 Terminate or suspend our business operations, unless it is succeeded by a permitted assignee under these Conditions or the Contract.
- 4.4 We may terminate the Contract at any time upon serving ninety (90) days written notice to You.
- 4.5 If either party terminates this Agreement, We shall assist in the orderly cessation of the Services, including timely transfer of such Services to another designated provider. Please note that You agree to pay us for rendering such assistance at the normal rates as outlined in Our current Rate Schedule.
- 4.6 You have the right to terminate Our Service Contract at any time within the first 14 days from its commencement date, provided We receive written notice by email of Your cancellation and the reasons for doing so.
- 4.7 Subject to clause 4.3 above, if You wish to terminate Your Contract after the initial 14 day period (from 00:00 of the 15th day), the following notice periods shall apply:
 - 4.7.1 60 day notice period for written cancellation request received from the 15th day to 30th day
 - 4.7.2 90 day notice period for any written notice received thereafter.
- 4.8 Any arrears or outstanding payments in connection with the supply of our Services must be paid for the entirety of that period until close of business on the final day of termination.

5. REPRESENTATIONS

- 5.1 You acknowledge that no employee or agent of Ours has the right to make any representation, warranty or promise in relation to the supply of Goods or Services other than and subject to those contained in these Conditions.

6. NOTICES

- 6.1 Any notice(s) under these Conditions shall be made in writing and sent by e-mail to the most recent registered address we hold on file for You.

7. GOVERNING LAW

- 7.1 These Conditions shall be governed by and construed in accordance with English law and the parties hereby submit for all purposes in connection with these Conditions to the jurisdiction of the courts of England and Wales.

8. ASSIGNMENT

- 8.1 You may not assign any rights and obligations under this Agreement without the prior written consent from the Company.

9. VARIATION OF THESE TERMS AND CONDITIONS

- 9.1 We may at any time vary these Conditions from time to time and publish the same on Our website. We deem that by doing so is ensures sufficient notice of such variation. We are under no other obligation to notify You directly of any such variation unless such variation is in breach of these Conditions.

Goods and Services

10. QUOTES

- 10.1 **Term and effect:** All Quotes are valid for 7 days only, unless otherwise agreed in writing. The Quote is merely an invitation for You to place an Order with Us and the acceptance of such Quote shall not form a binding agreement.
- 10.2 Expiry dates on quotes inform Us when the quote remains active or to be discarded. Once discarded the quote will need to be requested again.
- 10.3 Upon receipt of a quote, any prices within shall be confirmed as the final agreed price, unless the parties agree otherwise in writing or where there are price or product changes as may be varied from time to time.
- 10.4 Quotes and estimates shall be deemed to correctly interpret the original specifications based on the cost at the time the Quote or estimate is given. If You

later require any changes to the same, and those are agreed by us in writing, any changes shall be charged at Our prevailing rate.

- 10.5 The minimum time for Quote request to be actioned is usually 24 hours. In the event that a Quote is required urgently please notify us in writing so that we can respond accordingly.
- 10.6 We shall only amend our prices in specific circumstances. When such price or discount has been exercised, no other promotion, discount or bonus offer may be applicable or used in conjunction with Your Quote.
- 10.7 In the event that products in the Quote are subjected to any price and supply fluctuations outside of Our control We may reserve the right to update the price and/or affected product accordingly. If a product no longer available, such product shall be replaced or substituted based on Your specific requirements and subject to Your final approval.
- 10.8 Any non-stocked products may be open to price and stock fluctuations. These may only be confirmed once the Quote has been processed. While We endeavour to honour every price quoted, should there be an increase beyond our control, We may reserve any right to raise the price accordingly.
- 10.9 We shall notify You within 24 hours of the expiration of any Quote, however should We not hear from you by 17:30 on the final day the Quote expires, may reserve the cancel the same without having to notify or receive further approval from You.
- 10.10 ETA information is based on an estimate given by our vendors and shall not be held as the guaranteed date.
- 10.11 Freight charges or delivery charges may be added to any Order unless otherwise stated.
- 10.12 Should You wish to return an item, cancel an order or apply for a refund, We may reserve the right to apply a restocking fee to Your account. We do not stock inventory onsite and therefore any cancellation or return must be approved by the distributor.
- 10.13 All prices are based upon total Quote Purchase.
- 10.14 We are currently not VAT Registered and therefore do not charge the same. We shall notify you in advance of any change to Our VAT status and shall update these Conditions to reflect the same.
- 10.15 Unless specified, all hardware including parts and labour is covered by manufacturer's warranty.

- 10.16 **Varying or withdrawing Quotes:** Please note, We may vary or withdraw a Quote at any time at Our absolute discretion.

11. ORDERS

- 11.1 All Orders shall be made in the prescribed form or as set out in this clause 11. An Order **only** takes effect once it has been approved in writing and, We have received payment in cleared funds for the Order along with any related freight, delivery and (where applicable) in-transit insurance costs.
- 11.2 **Order forms:** You may place an Order for Goods and/or Services with Us via either: (i) a completed Order form or (ii) approval of an electronic Quote. Please provide full contact details, including **Your full legal name, any applicable company registration number, address** together with any relevant Quote number and preferred date for commencement of Services.
- 11.3 **Approval of Orders:** All Orders must be signed physically in writing or, electronically by You or on Your behalf.
- 11.4 **No obligation to deliver:** We are not obliged to provide Services or deliver any Order until we have received payment in cleared funds.
- 11.5 **Credit checks:** Any prospective Customer to whom We are considering extending credit or payment terms, hereby consents to Us undertaking a credit reference check.
- 11.6 **Cancellation of Orders:** Any request for a cancellation or refund shall only be granted in writing and at Our absolute discretion. You acknowledge that;
- 11.6.1 We may not be able to cancel an Order once the manufacturer or supplier has despatched the relevant Goods especially when such despatch often occurs the same day an Order is placed; and
- 11.6.2 any related freight, delivery and (where applicable) in-transit insurance costs may be deducted from refund in respect of the Order and We shall supply evidence where this has been the case.
- 11.7 **Processes and Procedures:** All Services and the supply of Goods are subject to Our own processes and procedures. You agree to co-operate and comply with the same as advised to You from time to time.

12. PRICING AND RATES

- 12.1 **Rates exclude Tax:** All rates and amounts quoted for Goods and/or Services are exclusive of Tax and any other applicable taxes or governmental charges (unless otherwise confirmed by Us in writing).

- 12.2 **Rates Schedule:** All Goods and Services must be paid at the Rates set out in any applicable Plan and the Rate Schedule set out from time to time during the provision of Our Services.
- 12.3 **Vary Rates:** We may reserve the right vary any Rate and/or Rate Schedule from time to time (subject to any fixed pricing for specific periods in any Plan) without notifying You of such variations.
- 12.4 **Call-out fees:** You acknowledge that call-out fees may be charged in addition to the Rates and at Our absolute discretion. Any call-out fee will depend upon where the Services may vary from Client to Client.
- 12.5 **Return/Cancellation Fee:** Any cancellation or refund may be independently reviewed and only approved in writing. Upon providing the same, We shall arrange a return, cancellation or refund in respect of an Order and may charge a fee to cover any administration costs in processing the return or refund for an Order, which may be deducted from the refunded monies.
- 12.6 **Expenses:** Any out of pocket expenses incurred during the provision of Our Services, shall be paid in addition to Rates, charges and call-out fees, upon written demand. Such expenses may include travel costs, flights, car hire, petrol, insurance, taxi fares, accommodation and related meal allowance, tolls and car parking expenses. Where appropriate, any expense will be documented and shall only be charged upon obtaining prior written authorisation from You before such expenses are incurred.
- 12.7 **Separate charges for Goods and Services:** Where appropriate, We may at Our absolute discretion charge for Goods separately from Services or may charge for Goods and Services together.
- 12.8 **Calculation of increments:** Where a charge is calculated based on increments of time, e.g. 1 hour or 30 minutes, We may charge the applicable rate for the whole increment of time even if Work is done during part, but not for the whole of, that increment of time.
- 12.9 **Change in underlying costs:** Without prejudice to any other rights under these Conditions, where there is any increase in underlying costs incurred by Us in connection with the supply of Goods or Services to You, We may, at our absolute discretion, vary any of Our Rates.
- 12.10 **Pre-Paid Blocks of Service:** Where You agree to buy a pre paid blocks of services during a Period, payment **must be made in advance** for such blocks at the rate applicable to the Rates Schedule for all Services. Each rate may incorporate a discount agreed by Us in writing and in respect of such blocks of service. Services **included in pre-paid block service rate** during the Period:

12.10.1.1 are calculated in accordance with the applicable minimum time periods and **increments** set out in the Rates Schedule;

12.10.1.2 **are only provided by Us during the applicable Period.**

12.10.1.3 Where Services are provided for a specified Period:

12.10.1.3.1 the Services remaining unused for that Period cannot be rolled over into any subsequent Period; and

12.10.1.3.2 We are not liable to refund, reimburse, pay damages or otherwise compensate or indemnify You in respect of those unused Services.

13. SERVICES AND PLANS

13.1 **Service and Plan Variations:** We may at any time withdraw from the provision of, or vary the scope or terms of Services referred to in the Rates and Plan Schedules. We may reserve the right to take these actions without providing sufficient notice to You.

13.2 **Copies on Request:** We shall provide You with a copy of the current Rates Schedule upon request. Plan Schedules are tailored for specific Plans and are only available to Clients participating in such Plan.

14. CONTRACTING

14.1 We may subcontract any or all of the Services, but shall retain prime responsibility for those Services under these terms.

15. DELIVERY, TITLE AND RISK

15.1 **Delivery liability:** We shall use all reasonable endeavours to despatch Goods by the due date, but do not accept any liability for non-delivery or failure to deliver on time where this is caused by circumstances beyond Our reasonable control, notwithstanding, for example, due failure in supply or delay caused by third parties.

15.2 **Availability to accept delivery:** You must be available to accept any Goods or performance of Our Services at Your nominated delivery address unless otherwise agreed with Us in writing.

15.3 **Passing of Risk:** Delivery is deemed to take place when the Goods are delivered or the Services are performed at the nominated address. Any risk of loss, or damage and pass to You upon such delivery. Nothing in this clause 15.3 will affect Title to the Goods as set out in clause 15.5 below.

15.4 **Obligation to insure:** You will ensure that all Goods are adequately insured from the time of delivery under clause 15.3.

15.5 **Retention of Title:** Until receipt of full payment (in cleared funds) following an Order:

15.5.1 title to all Goods supplied remain shall not pass;

15.5.2 All Goods shall be held as fiduciary Bailee and agent for Us and must not be parted with or sold. Any attempt to do so may be considered a criminal offence and shall be deemed liable to ensure that We are fully compensated for the value of such product at the time of purchase or provision of our Services;

15.5.3 Where those Goods have been sold or misused, You are required to hold all proceeds from such sale on trust in a separate account.

15.5.4 You must keep those Goods separate from other goods and maintain the same and their labelling and packaging are intact;

15.5.5 We may request permission to enter any premises where We suspect those Goods may be, take possession and remove the same. In circumstances whereby Your account is in arrears, or you have sold/misused such Goods and refuse to compensate the Company in doing so, may be grounds for a criminal offence and a request to authorities to prosecute may be initiated.

15.5.6 Where permission has been granted to enter the premises only relating to the circumstances in this clause 15, You hereby indemnify and hold harmless Us from and against any costs, claims, allegations, demands, damages or expenses or any other acts or omissions arising from or in connection with, such entry, repossession or removal.

16. RETURNS AND CLAIMS FOR GOODS AND SERVICES

16.1 **General Returns Policy:** Notwithstanding anything in these Conditions, You acknowledge that We supply Goods in conjunction with returns and claims policies, of any relevant manufacturer or supplier. You shall accept Goods subject to the terms of such conditions and shall indemnify and hold Us harmless in respect of any further or other obligation, failure or default on the part of that manufacturer or supplier.

16.2 **Customised Goods not returnable:** Where Goods have been supplied pursuant to an Order tailored to Your specification, the Goods may be obtained from overseas manufacturers, or a supplier who is no longer trading, and may otherwise not readily returnable. Such Goods are non-refundable.

16.3 **Duty to inspect:** You may inspect all Goods immediately upon their delivery and in circumstances whereby they are not fit for purpose or use, You may within 7 days of such delivery provide us with written notice to request a refund. If we do not receive such notice, We shall deem this as acceptance for the Goods.

- 16.4 **Return Condition:** Where You are entitled to return Goods under these Conditions, You must return the Goods in their original condition and unopened, provided always that where, upon opening the packaging it becomes apparent that the Goods are different to what is described, damaged or are faulty, the Goods may be returned.
- 16.5 **Return costs:** You shall pay Our costs and expenses incurred in arranging the return of Goods to a manufacturer or supplier and/or the cancellation of any related Services unless that manufacturer or supplier accounts for such costs.
- 16.6 **Consequences of use, installation, customisation or sale:** You shall indemnify and hold Us harmless in respect of all allegations and claims in respect of Goods once the same have been used, installed, customised or re-sold by You (without prejudice to the recourse of such a Customer to the manufacturer of the Goods).

17. COMPUTER UTILITY, FUNCTIONALITY AND FITNESS FOR PURPOSE

- 17.1 **Service limitations given the science of computing:** You acknowledge that a reasonable incident of the Services may involve trial and error and that a science applied often in novel or unknown circumstances involving experiment. You also acknowledge that the Services may involve tests, troubleshooting, advice and recommendations that may prove incorrect or inappropriate, particularly in an attempt to cure a problem You may be having. Whilst We will make what We consider (at Our absolute discretion) to be all reasonable endeavours to provide appropriate tests, troubleshooting, sound advice and good recommendations in order to assist, You shall not hold Us accountable where a provision of Service is not directly our fault.
- 17.2 **Reasonable Assistance Limits:** We are only obligated to provide what We consider to be reasonable assistance in the circumstances (including the installation and customisation of new software or hardware) under any Plan. You will pay for any additional Work we see fit at the Rates unless otherwise agreed. Without limitation, reasonable assistance is Work undertaken during Business Hours over a period of time not exceeding any Period that We have allowed or estimated for the Work to take place.
- 17.3 **Recommendations, suitability, functionality and fitness for purpose:** The parties acknowledge that:
- 17.3.1 We may recommend that the purchase Goods provided by third parties from time to time;
- 17.3.2 Recommendations may be made in situations where You have made known to Us the purpose for which the Goods will be used or some function sought to be fulfilled;

17.3.3 You acknowledge that We have no control over many factors involved with the suitability, function or fitness for purpose of Goods in an existing or new hardware environment, e.g.

17.3.3.1 the compatibility or ability of the Goods to fit or perform to expectations in the receiving computer/internet environment; or

17.3.3.2 the behaviour of third party supplier, e.g. in relation to support;

17.3.4 You acknowledge that for reasons beyond Our control, the Goods may fail to meet Your expectations, may not turn out to be fit for all or any of the purposes sought, may not be suitable or may not function properly in all or any respects;

17.3.5 You acknowledge that the Services provided may involve the very task of seeking to customise Goods so they may be fit for particular purposes and that customisation may be a very substantial project in itself;

17.3.6 Accordingly You shall accept sole responsibility for:

17.3.6.1 decisions whether or not to follow Our recommendations to purchase or customise Goods or obtain for that or any other purpose a product or service;

17.3.6.2 any failure or defect in suitability, function or fitness for purpose of any Goods and/or Services, including a responsibility to obtain Your own independent advice from a qualified third party with reasonable skills or technical knowhow;

17.3.7 Where We provide Services with a view to achieving the suitability, function or fitness for purpose (whether expressed, agreed or otherwise), You shall pay for those Services on time without any set-off or counter-claim, whether or not We are able to achieve the desired goal, provided We have acted in good faith and reasonable endeavour to achieve those outcomes.

17.4 **Testing Procedures:** We shall ensure the provision of reasonable instructions for testing or troubleshooting any problems. If those are not resolved, We shall, subject to these Conditions, allocate reasonable resources resolve any issue.

18. FORCE MAJEURE

18.1 **Force Majeure:** If We are unable to supply any Goods or Services due to circumstances beyond Our control, We may cancel any Order (even if already accepted) or cease to provide the Services by written notice to You.

18.2 We shall not be liable for any breach of contract due to any matter or thing beyond Our control, including failures by third parties to supply goods, services or transport, stoppages, transport breakdown, fire, flood, earthquake, acts of

God, strikes, lock-outs, work stoppages, wars, riots or civil commotion, intervention or public authority, explosion or accident.

- 18.3 If such issue persists for a period of 8 consecutive weeks, the Contract shall be declared null and void. Any outstanding expenses shall be written off and any unpaid Goods shall be returned to Us as soon as reasonably practicable.

19. PRODUCT SPECIFICATIONS

- 19.1 **Alterations to Specifications:** We make every effort to supply the Goods in accordance with the Order, however We may supply alternate Goods subject to minor any variations in actual dimensions and specifications by the manufacturer after the Order date and before delivery.
- 19.2 **Substitute Goods:** If We are unable to supply the Goods ordered, We may supply similar or alternate reasonable substitutes of equal quality. Where such Goods or substitutes are unattainable, We may supply those of superior quality provided We do not pay a higher price than the price quoted or otherwise agreed for the Goods ordered.

20. WARRANTIES

- 20.1 **Reliance on Manufacturer's Warranty:** You rely on the warranties provided by the manufacturer of Goods supplied by Us (where applicable) and shall directly deal with such manufacturer for all claims covered by those warranties.
- 20.2 **No claim for manufacturer's default:** You indemnify and hold Us harmless in respect of the performance or otherwise, by any manufacturer of Goods supplied by Us, of any obligations of that manufacturer in respect of such Goods. This includes any damages or monies due and arising under, or in connection with, any breach by the manufacturer of any warranties in respect of those Goods.

21. LIABILITY

- 21.1 **Exclusion:** Except as specifically set out herein and so far as may be permitted by law, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Goods or Services, whether implied or express, by statute, common law, trade usage, custom or otherwise, is hereby excluded.
- 21.2 **No liability for program or data loss:** You indemnify and hold Us harmless in respect of any allegation, claim, loss or expense or any third party for program, data loss or damage suffered by You or third party arising directly or indirectly from the supply of the Goods or Services by Us to You. You acknowledge You

are solely responsible for backing up all programs, data or otherwise, in order to mitigate Your own potential loss of programs and data.

- 21.3 **Limit on consequential damage:** You indemnify and hold Us harmless in respect of any allegation or claim as to any indirect or consequential losses or expenses suffered by You or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to You or any third party.
- 21.4 **Limit on damage from a failure in supply:** You indemnify and hold Us harmless for any allegation or claim for loss or damage by You or third party where there has been a failure to meet any delivery date, cancelation or suspension to the supply of Goods or Services.
- 21.5 **General limitation of liability:** Except as otherwise stated within these Conditions, We are not liable for any loss or damage however caused (other than those incurred by Our negligence or which result in personal injury) which is incurred by You in connection with:
- 21.5.1 Goods or Services provided;
 - 21.5.2 Your use of Our website (including the use of a credit card or other debit device) or any linked website;
 - 21.5.3 the non-availability of Goods or Our Services for any reason whatsoever;
 - 21.5.4 any act or omission of Ours or the provision of inaccurate, incomplete or incorrect information by You.
- 21.6 **Limitation options:** To the extent that any legislation implies a condition or warranty that cannot be excluded but can be limited, clause 21.5 does not apply to that liability and Our liability for any breach of that condition or warranty is limited to Our performance of any one or more of the following (at its election):
- 21.6.1 replacing the Goods or supplying equivalent Goods, Services or Work;
 - 21.6.2 repair of the Goods or including Work;
 - 21.6.3 payment for the cost of replacement Goods, acquisition of equivalent Goods, or the provision of Services or Work; or
- 21.7 **Laws still apply:** Nothing in these Conditions is to be interpreted as to exclude, restrict, modify or having the effect of excluding, restricting or modifying the application of any legislation applicable to the sale or supply of the Goods or Services which cannot be excluded, restricted or modified.
- 21.8 **Severance:** If any provision contained in the Conditions is unlawful, invalid or unenforceable, those provisions may be severed without prejudice to the validity and enforceability of the remaining provisions of the Conditions.

22. ERRORS AND OMISSIONS

- 22.1 We make every effort to ensure that all prices and descriptions quoted are accurate. In the case of an error or omission, We may rescind the affected Contract by written notice to You, notwithstanding that We have already accepted Your Order and/or received payment from You. Our liability in that event will be limited to the return of any money paid in respect of the Order.

Our Responsibilities

23. PRIVACY STATEMENTS AND YOUR RIGHTS

- 23.1 We collect Your personal information for the fulfilment of all Quotes, Orders and provision of Goods or Services , which may be retained for 6 years after completion of Work and used only for any such purposes (“Authorised Purposes”).
- 23.2 You are required to provide your personal information to Us for Authorised Purposes.
- 23.3 We may disclose Your personal information to other persons for the Authorised Purposes only, which may include any of the following;
- 23.3.1 the fulfilment of Quotes, Orders and Work; or
 - 23.3.2 the provision of Goods or Services; or
 - 23.3.3 to verify the information You provide; or
 - 23.3.4 to verify or inquire about Goods or Services that may be suitable for your purposes; or
 - 23.3.5 to confirm Your requirements;
 - 23.3.6 to anyone proposing to supply Goods or Services to You; or
 - 23.3.7 to acquire Goods or Services on Your behalf.
- 23.4 We will otherwise not disclose any personal information without Your consent unless authorised by law.
- 23.5 Your personal information shall only be held at Our registered office or principal place of business. Any request to access, removal or correct it may be done so by contacting us via email.
- 23.6 We rely on You to submit correct information and details where requested. You accept that You may incur additional expenses if you submit incorrect information.

24. OUR WEBSITE

- 24.1 We make no representations or warranties in relation to information available on Our website, including without limitation:
- 24.1.1 that information on Our website is complete or correct;
 - 24.1.2 any incorrect information shall be remedied immediately upon being brought to our attention;
 - 24.1.3 that Our website will be continuously available or free from any delay in operation or transmission, virus, communications failure, internet access difficulties or malfunction in hardware or software; and that We endorse any internet site linked to Our website or any third party products or services referred to on Our website.

25. INSURANCE COVERAGE

- 25.1 We will maintain at Our own expense, commercial general liability insurance for personal injury and property damage for a general aggregate of £2,000,000 and cyber cover for data protection, cyber-attacks or any loss of information. At Your request We will provide You with certificates, including renewal certificates evidencing such coverage within thirty (30) days of commencing this Agreement, at every renewal and at other times as may be reasonably requested by You.

Your Responsibilities

26. LODGING OF SERVICE REQUESTS

- 26.1 In order for Us to provide You with the agreed Service, You agree to follow Our process for lodging of Service Requests as outlined in Appendix A.

27. ACCESS TO SYSTEMS, SITES AND PEOPLE

- 27.1 In order to provide You with the agreed Service, You agree to provide access to various items including but not limited to, equipment, people and sites as and when required.
- 27.2 You agree to allow Us to install software on Your Equipment that allows Our technicians to access Your systems at any time. This software shall not be used for malicious purposes, but shall allow Us to view system statuses, send monitoring information, see users' desktops and control Your PC's. This may require that devices are left on overnight or weekends.

28. THIRD PARTY AUTHORISATIONS

- 28.1 At times We may need to contact third party providers on Your behalf, such as Your internet provider. Some of these providers may require Your authorisation

for Us to deal on Your behalf. It is Your responsibility therefore to ensure that We are able to deal freely with these providers where technical assistance is required.

29. PAYMENT, LATE PAYMENT AND DEFAULT

- 29.1 **Payment due date:** All invoices issued to You are due and payable to Us as per these Conditions and the terms stated on the invoice (unless otherwise agreed in writing). Any payment may be made by cash, cheque, credit or direct card.
- 29.2 **7 days late:** Where You fail to pay an invoice within seven (7) days of the due date, We may, at Our absolute discretion and without prior notice, suspend or discontinue the supply of Goods and/or Services to You.
- 29.3 **Recoveries:** All legal and other costs and expenses incurred in connection with the recovery of late payments shall be added to the amount due and may be recoverable at any time, in addition to the original cost of the invoice. If You default in payment of any invoice on time, monies which would have become due by You at a later date shall be immediately due and payable without any further notice to You. Collectively, all of these monies are referred to in these Conditions as a "Sum Due".
- 29.4 **Interest:** If payment of any Sum Due is not made on time, We reserve the right to charge interest at the rate of 4% per annum above Barclays Bank PLC base rate on the Sum Due until the arrears are paid in full.
- 29.5 **Application of funds:** All payments of the Sum Due shall be applied as follows:
- 29.5.1 towards payment of any costs (including legal costs), charges, expenses or outgoings paid by Us in relation to any dishonoured cheque fees, collection costs or any other action taken by Us for the recovery of any amounts owing;
 - 29.5.2 in or towards payment of any interest due or payable hereunder; and
 - 29.5.3 in or towards payment of Your debts to Us in order from the longest standing due to the most recently incurred.
- 29.6 **Security:** We may require You to provide security over Your property (including the Goods) as collateral to be held as security for any Sum Due or as a condition precedent to the continuation of supply of Goods or Services by Us to You.
- 29.7 **Payment arrangements:** In the event that a repayment arrangement is made in relation to any Sum Due and the supply of Goods or Services is resumed, but then a repayment due under that arrangement is not made on time, We may, at Our absolute discretion and without prior notice, suspend or discontinue the supply of Goods or Services to You.
- 29.8 **Power of Attorney:** You hereby irrevocably appoint Us as Your attorney to do anything We consider fit for the recovery of the Sum Due or the creation,

perfection or enforcement of any collateral held or to be held as security for any Sum Due.

- 29.9 **Other remedies:** We may exercise any of Our rights and remedies including taking legal action against You for the recovery of any monies due to Us, notwithstanding it may have exercised other rights under these Conditions.

30. NON-SOLICITATION OF CLIENTS AND EMPLOYEES

- 30.1 You agree that employees are one of Our most valuable assets, policy and professional ethics require that Our employees not seek employment with or be offered employment by You during the course of engagement and for a period of two (2) years thereafter (or the maximum amount permissible by a Court).
- 30.2 You agree that Our damages resulting from breach of this clause 30.1 would be impracticable and that it would be extremely difficult for Us to ascertain the actual amount of damages. Therefore in the event You violate this provision, You agree to immediately pay Us 100% of the employee's total annual salary, as liquidated damages and We shall have the option to terminate this Agreement without further notice or liability to You. The amount of liquidated damages reflected herein is not intended as a penalty and is reasonably calculated based upon the projected costs We would incur to identify, recruit, hire and train suitable replacements for such personnel.

31. SOFTWARE

- 31.1 All Software licences are the Your responsibility. It is the Your duty to store and maintain all Software licences used including all Software installed by Us.
- 31.2 You indemnify and hold Us harmless against any claim, allegation, loss, damage or expense arising directly or indirectly from:
- 31.2.1 any unauthorised Software use; or
 - 31.2.2 any breach of Software licences including those provided to Us by You to be installed on one of Your computers and those provided by third parties; or
 - 31.2.3 otherwise as a result of installing Software which You are not authorised to use; or
 - 31.2.4 any issue, defect or malfunction associated with a Software (or related services) supplied by third parties.
- 31.3 All copyright in custom software remains Our sole property unless alternative arrangements have been made as part of a separate software agreement.

32. COPYRIGHT AND CONFIDENTIALITY

- 32.1 **Warranty and breach:** You warrant that any confidential information or intellectual property (of any kind and in any form held) provided by You to Us

belongs to You. In the event of any breach of this warranty by either party, the affected party shall pay all sums due as if such warranty had not been breached. Each party shall indemnify the other in respect of any allegations, claims, loss, costs or expenses in connection with such breach of warranty by the offending party.

- 32.2 **Retention of title:** All intellectual property rights in any Work created, commissioned or acquired by Us in the course performing Our Services shall become Our exclusive property unless otherwise agreed in writing between the two parties.
- 32.3 **Confidential Information:** We acknowledge that in the course of providing Our Services, We may learn certain non-public personal and otherwise confidential information relating to You, including Your Customers, consumers or employees. We shall regard any and all information received or known to Us as confidential.
- 32.4 You shall acknowledge that all information and services, consulting techniques, proposals, and documents disclosed by Us or which come to Your attention during the course of business, constitutes as valuable assets of, and confidential and/or proprietary information to the Company.

As such, both parties shall take all commercially reasonable steps to not disclose, reveal, copy, sell, transfer, assign, or distribute any part or parts of such information in any form, to any person or entity, or permit any of their employees, agents, or representatives to do so for any purpose except unless permitted in writing by the disclosing party or as required by applicable law.

Appendix A

SERVICE REQUEST LODGEMENT PROCESS

Please ensure the methods and format below are used to contact us upon lodging a service request:

Phone: 0151 433 2626

Email: Support@Jennings-Walsh.co.uk

Web Portal: Support.Jennings-Walsh.co.uk

Include a short description of the problem and any screenshots of errors to assist in the resolution of the issue.

If the issue is lodged by either phone or external email you must include your name, company and return contact details.

Service requests **must not** be lodged directly with technicians, as this detracts them from resolving the current issue.

SERVICE REQUESTS OUTSIDE OF OUR BUSINESS HOURS

Service Requests to be addressed outside of Business Hours must be lodged by phone. Please note further charges apply for afterhours Work/Services.

Any request received by alternative methods other than by phone shall be dealt with the next Business Day.