

VANQUISH INTEGRATED PEOPLE SOLUTIONS LIMITED

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

In this Agreement the following words shall have the following meanings:

“Agreement” the agreement between the Company and the Customer for the purchase of Equipment and where applicable Software and Services to which these terms and conditions apply;

“Charges” where applicable the total aggregate Equipment Price, Licence Fee, and Extended Warranty Fee as specified in the Particulars;

“Company” Vanquish Integrated People Solutions Limited;

“Company’s Premises” the address of the Company set out in the Particulars;

“Customer” the person named as such in the Particulars;

“Customer’s Premises” the address or addresses for delivery of the Equipment set out in the Particulars;

“Equipment” the equipment specified in the Particulars;

“Equipment Price” the total purchase price of the Equipment as specified in the Particulars;

“Extended Warranty” where applicable the extension of the Warranty contained in condition 11.2 for such further period as is specified in the Particulars;

“Extended Warranty Fee” where applicable the fee for the Extended Warranty as specified in the Particulars;

“Licence” where applicable, a non-exclusive non-transferrable licence or sub-licence to use the Software as specified in the Particulars;

“Licence Fee” where applicable, the fee for the Licence as specified in the Particulars;

“Order” an order by a Customer for the purchase of such Equipment, Software and Services as are specified in the Particulars;

“Particulars” the particulars overleaf;

“Response Time” where applicable the time from written receipt by the Company of the request for Support as specified in the Particulars;

“Services” where applicable the Support and Extended Warranty to be provided by the Company to the Customer as specified in the Particulars;

“Software” the software specified in the Particulars, together with Upgrades, which is to be made available for use with the Equipment;

“Support” the services set out in condition 6 to be provided in respect of the Equipment and, where appropriate the Software by the Company to the Customer as provided in the Particulars;

“Support Hours” the hours between 09:00 – 17:00 each day excluding Saturdays, Sundays and Public Holidays;

“Upgrades” such upgrades of the Software which are made available by the Company to the Customer;

“Warranty” the warranty relating to the Equipment and/or Software contained in condition 11.1 which shall include Support during the Warranty Period of the Equipment and the Software;

“Warranty Period” 12 months from the date of purchase.

2. ACCEPTANCE OF ORDERS

- 2.1. The Company will only be bound by an Order if it is in written form. Quotations are for information only and shall not be binding on the Company.
- 2.2. These terms and conditions shall govern the Agreement to the exclusion of any other terms and conditions and no variation to these terms and conditions shall be binding unless agreed in writing between the Customer and the Company.
- 2.3. The Company's employees and agents are not authorised to make any representations or warranties concerning the Equipment, the Software or the Services unless confirmed by the Company in writing. In entering into the Agreement, the Customer acknowledges that it does not rely on any such representations or warranties which are not confirmed.
- 2.4. Any typographical, clerical or other error or omission in the Particulars, any literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- 2.5. The Customer shall be responsible for ensuring the accuracy and sufficiency of any Order shown in the Particulars and the accuracy of any accompanying specifications. The Company shall not be liable for the consequences of any inaccuracy, will not issue a credit note in respect of an Order and will be entitled to charge the Customer for the costs it incurs by any variations to an Order.

3. SALE OF EQUIPMENT

- 3.1. Subject to these terms and conditions, the Company shall provide the Customer with the Equipment, the Software and such of the Services as are provided in the Particulars.
- 3.2. Delivery of the Equipment shall be made by the Customer collecting the Equipment at the Company's Premises at any time after the Company has notified the Customer that the Equipment is ready for collection, or if agreed in writing by the Company, by the Company delivering the Equipment to the Customer's Premises.
- 3.3. Any dates quoted for delivery of the Equipment are approximate only and the Company shall not be liable for the delay in delivery of the Equipment howsoever caused unless the delay exceeds 6 months. Time for delivery shall not be of the essence unless previously agreed by the Company in writing. The Company reserves the right to deliver the Equipment in advance of the estimated delivery date.
- 3.4. The Company reserves the right to deliver the Equipment by instalments and in the absence of written Agreement to the contrary each delivery shall constitute a separate contract to which these conditions shall apply. Failure by the Company to deliver any one or more of the instalments of the Equipment in accordance with the Agreement or any claim by the Customer in respect of any one or more of the instalments of the Equipment in accordance

with the Agreement or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Agreement as a whole as repudiated.

- 3.5. If the Customer fails to take delivery of the Equipment or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Customer shall indemnify the Company in full against all loss, costs, changes and expenses incurred by the company as a result of such failure.

4. RISK AND OWNERSHIP

- 4.1. All risk in the Equipment will pass to the Customer upon delivery.
- 4.2. The Equipment shall remain the sole and absolute property of the Company until such time as the Customer shall have paid to the Company the Charges and any other charges due from the Customer in full.
- 4.3. The Customer hereby acknowledges and agrees that in relation to the Equipment:-
- (i) the existence of an immediate binding fiduciary relationship between itself and the Company in relation to the Equipment; and
 - (ii) the Customer is in possession of the Equipment solely as fiduciary Bailee for the Company until such time as the Charges are paid to the Company in full.
- 4.4. The Company may at any time forthwith revoke the Customer's bailment of the Equipment and its right to the Licence by notice to the Customer given orally or in writing and the Company may upon such revocation collect the Equipment.
- 4.5. Further to sub condition 4.4 hereof, the Customer's bailment of the Equipment shall immediately cease if:
- (i) a receiver or administrator is appointed over any part of the assets or of any part of the undertaking of the Customer;
 - (ii) the Customer goes into voluntary liquidation or if it convenes any meeting of members or creditors or sends any notices relating to any proposed voluntary liquidation;
 - (iii) a winding up order is made against the Customer or if a notice under Section 123(1)(a) of the Insolvency Act 1986 or a creditor's petition is served upon the Customer;
 - (iv) the Customer calls any meeting or makes any arrangements with creditors or enters into any form of composition.
- 4.6. The Customer specifically agrees with and authorises the Company to enter the Customer's Premises or such other Premises where the Equipment is located to recover the same.
- 4.7. Until the Customer shall have paid the Charges to the Company in full, the Customer shall not sell, hire, lease, mortgage, pledge or otherwise dispose of the Equipment and shall keep the same in good condition, properly stored, protected and insured.

5. LICENCE

- 5.1. If the Particulars refer to the Company providing Software, the Company hereby grants to the Customer a non-exclusive and non-transferable single environment licence to load, store and run the Software for use in conjunction with the Equipment, but subject to the condition that the Equipment is used only for its intended purpose and for the Customer's internal business or personal purposes only, subject to condition 7.1.
- 5.2. No ownership of any intellectual property right in the Software shall pass to the Customer by virtue of this condition 5.
- 5.3. The Customer agrees:-
 - (i) to give notice to the Company of any infringement of any intellectual property right in the Software forthwith upon becoming aware of the same;
 - (ii) to give the Company the sole conduct of the defence to any claim or action in the respect of any such infringement and not at any time to admit liability or otherwise settle or compromise any claim or action except upon the express instruction of the Company, and;
 - (iii) subject to the reasonable reimbursement of costs to act in accordance with the reasonable instructions of the Company and give the Company such assistance as it shall reasonable require in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.
- 5.4. The Company may from time to time and without notice disconnect the Equipment from the Software in any of the following circumstances:
 - (i) during the period of any technical failure, repair, or maintenance of the Equipment; or
 - (ii) upon the occurrence of any of the events specified in condition 4.5; or
 - (iii) if the Customer commits a breach of any of the terms of the Agreement (including failure to pay Charges due) until the breach (if capable of remedy) is remedied, or does, or allows to be done, anything which in the Company's reasonable options may have a material adverse effect on the Company's business, its reputation or the goodwill associated with the Equipment or the Software.

The Customer will remain liable to pay all Charges due under these terms and conditions and the Agreement notwithstanding any suspension or disconnection under sub conditions 5.4.2 and 5.4.3.

6. SUPPORT

- 6.1. If the Customer experiences malfunctioning or failure of the Equipment or Software the Customer should contact the Company
- 6.2. Upon receipt of a notification pursuant to condition 6.1 that the Equipment or the Software has failed or is malfunctioning, Support (subject to conditions 6.4, 6.6, 6.7 and 6.10) shall be

provided pursuant to this condition 6.2 to inspect, test and diagnose a failure and to adjust such parts of the Equipment and/or Software as maybe necessary to restore the Equipment and where appropriate the Software to it proper operating condition. If the notification of a faulty or malfunctioning occurs during the first three months of the Warranty Period the Support may be provided onsite at the Customer's Premises and if the notification of a faulty or malfunctioning occurs after the expiry of the said three months but within the Warranty period the Support shall be provided only if the Customer delivers the Equipment, at the Customer's sole expense, to the Company's Premises.

- 6.3. The Company may, subject to the Customer paying the Extended Warranty Fee, continue to provide Support as part of the Extended Warranty following the expiry of the Warranty Period
- 6.4. Support does not include any support of the Equipment or Software which is necessitated as a result of any cause other than wear and tear or due to the Customer's neglect or fault including (without limitation):-
 - (i) accident, transportation, neglect, misuse or default of the Customer, its employees or agents or any third party;
 - (ii) failure of electric power, network access, air conditioning, humidity control or other environmental conditions; or
 - (iii) any fault in any attachments or associated Equipment (whether or not supplied by the Company or its approved representatives) which do not form part of the Equipment; or
 - (iv) act of God, fire, flood, war, act of violence, or any other similar occurrence; or
 - (v) any attempt by any person other than the Company or its approved representatives to adjust, repair, or maintain the Equipment or modify the Software.
- 6.5. The Company and its approved representatives will (if it able to do so) and subject to the availability of appropriate resources, at the request and expense of the Customer, test and diagnose a failure or fault and repair, adjust or replace any part of the Equipment or Software outside the Warranty Period or where the Customer is not paying the relevant Charges or where the Equipment or Software has failed due to a cause other than fair wear and tear or due to the Customer's neglect or fault subject to the Customer accepting the Company or its approved representatives written quotation therefore prior to the commencement of work.
- 6.6. The Company shall make reasonable endeavours to despatch a suitable competent engineer within the Response Time, but the Response Time is an estimate only and the Company will not be responsible for any consequences of delay if the Response Time is not met.
- 6.7. Support shall be provided only during the published Support Hours. The Company and its approved representatives may upon the Customer's request and subject to the availability of appropriate resources, provide Support outside of these hours, but shall be entitled to charge for the same by levying additional charges.

- 6.8. The Company reserves the right to replace the whole of the Equipment or any part or parts thereof which may be found to be faulty or in need of investigation.
- 6.9. These terms and conditions shall apply to all replacements and renewals of any part or parts of the Equipment made by the Company or its approved representatives.
- 6.10. The Customer will allow the Company or its approved representatives full and safe access to the Equipment or the Software and the Customer's Premises or such other premises where the Equipment or Software is located or enable the Support to be carried out and the Customer shall give the Company or its approved representatives all the necessary assistance to enable the Support to be completed.

7. SUPPORT

- 7.1. In consideration of the grant of this Licence the Customer agrees to pay the Company the Licence Fees and the Support Fees
- 7.2. The Customer also agrees to pay the Support Fees in full each year on the Agreement date anniversary and annually thereafter. The Company shall have the right to increase Support Fees in accordance with the official RPIX published prior to the Support renewal notices being sent out.
- 7.3. Unless otherwise agreed in writing by the Company, pursuant to condition 7.4, the Customer shall, when signing the Particulars pay the Company the Equipment Price and Licence Fee.
- 7.4. Payment of the Extended Warranty Fee, is due and the Company may agree in writing to accept the payment of the Equipment price within 30 days following the date of invoice and the Company shall be entitled to invoice the Customer on or at any time after the Company has notified the Customer that the Equipment or part thereof is ready for collection, or the Equipment or part thereof has been delivered.
- 7.5. Unless otherwise expressly stated in the Particulars, all Charges are exclusive of any applicable value added tax which the Customer shall be additionally liable to pay the Company.
- 7.6. Any sums due to the Company from the Customer if unpaid for more than seven days after the due date shall bear interest at the rate of 2% above the base rate of Lloyds TSB Bank plc from time to time calculated from the date the payment was due until the date of actual payment. Without prejudice to any other right the Company shall be entitled to recover from the Customer all costs and expenses (including legal costs) reasonable incurred in connection with the collection of overdue sums. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.7. The Customer will pay all sums due to the Company or to such other person that the Company may specify by the method specified in the Particulars.

7.8. The Company shall be entitled to increase the Licence Fee and Extended Warranty Free from time to time provided that the Company shall give the Customer at least one month's notice of such increase.

8. CUSTOMER'S OBLIGATIONS

8.1. The Customer agrees during the continuance of an Agreement:-

- (i) to be responsible for the wiring of all leads and fixing of all plugs to the Customer's power supply and to provide a non-switched fused spur or three pin pin socket, whichever is appropriate for the Equipment to be provided, within 1.5 metres of the installation; and
- (ii) to operate the Equipment and if relevant, the Software in accordance with any, written, instructions of the Company and not to adjust, reset, repair or alter the internal workings or setup of the Equipment or, if relevant, interfere with the Software in any way without written consent of the Company; and
- (iii) to allow the Company, its employees or representatives full and free access to the Equipment during normal working hours, and at other reasonable time required, to enable the Company to perform any repairs or adjustments; and
- (iv) not to act in a way, whether knowingly or otherwise, which will impair the operation of the Equipment or Software or any part of them or put them in jeopardy; and
- (v) to notify the Company immediately of any loss of the Equipment and to comply with any reasonable security and other checks; and
- (vi) Not to be involved in or knowingly, recklessly or negligently permit or negligently allow any other party to be involved in the fraudulent or other unauthorised use or attempted use of any Equipment or the Software, by corrupt or dishonest or illegal means at any time and by a person and to notify the Company immediately on becoming aware of or suspecting such activity.

9. CANCELLATION/TERMINATION

9.1. Following acceptance by the Company of the Customer's Order, no cancellation and/or suspension, either in whole or in part, may be made by the Customer other than with the prior written consent of the Company and upon terms that the Customer shall indemnify the Company in full against all loss (including without limitation loss or profit) damages, costs, expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with the cancellation and/or suspension.

9.2. Without prejudice to any other claims or remedies which the Company may have against the Customer the Company may terminate the Agreement immediately in any one of the following circumstances by written notice;

- (i) if the Customer fails to comply with any of the terms of this Agreement including failure to pay and Charges when due; or
- (ii) if the Customer makes or offers to make any arrangements or composition with creditors or commits any act of bankruptcy, or if a petition in bankruptcy is presented or made against the Customer, or if the Customer is a limited company and any resolution to wind up that company is passed, or if any

receiver or administrator is appointed over the whole or any part of such company's assets; or

- (iii) if the Customer convenes any meeting to discuss any proposal or application is made for the appointment of an administrator, receiver, liquidator or similar official in respect of the Customer or any of its assets; or
- (iv) if the Customer ceases to trade; or
- (v) if the Customer takes or suffers any similar or analogous actions in any jurisdiction in consequence of debt.

9.3. Upon the termination of the Agreement the Company shall disconnect the Customer from the Software

9.4. Upon termination the Customer shall pay on demand all Charges outstanding as the time of termination. In addition, the Customer shall pay to the Company a sum equal to the minimum sum for all Charges which would otherwise have fallen due for payment by the Customer had the Agreement continued, discounted to take account of early payment at a rate of 2% below Lloyds TSB Bank plc base rate at the date of termination.

10. LIABILITY

10.1. Except as expressly provided in this Agreement all warranties, statements terms and conditions or undertakings which may be implied by statute, common law, custom of the trade or otherwise are hereby excluded and this condition 10 specifies the entire liability of the Company including liability for negligence.

10.2. The Company does not exclude liability:-

- (i) for fraudulent misrepresentation or death or personal injury resulting from its negligence or that of its employees;
- (ii) for direct physical damage to or physical loss of property of the Customer resulting from the Company's or its employees negligent acts or omissions provided that the Company's liability under this subsection 10.2(ii) shall not exceed in aggregate the sum equal to the total aggregate sums payable by the Customer to the Company under the Agreement and provided further that the Company is notified of any alleged damage or loss within 14 days of the date the Customer discovers or ought reasonably to have discovered such damage or loss (time to be of the essence).

10.3. Subject to condition 10.2, the Company will not be liable to the Customer for any:

- (i) direct loss, damage or injury; and/or
- (ii) indirect, consequential or special loss, damage or injury (including but without limitation) financial loss, loss of profits, loss of business or contracts, loss of operating time or loss of use:

Whether foreseeable or not to the Customer or to the Customer's property howsoever, when so ever or where so ever arising whether by reason of any representation or any implied warranty, condition or other term or duty at common law or under statute or under the express terms of the Agreement (and whether

caused by the negligence of the Company or otherwise) or otherwise in respect of or in connection with the provision of the Equipment, and/or the Software or the Services.

10.4. Except to the extent as provided by sub condition 10.2(i) the Customer shall indemnify and keep the Company indemnified against any liability (including liability for negligence) no matter when or how arising out of any claim by any third party against the Company in respect of or in connection with the use of the Equipment together with all the legal and other costs relating to any such claim except that in so far as the claim relates to direct physical damage to or physical loss of property resulting from the negligence of the Company or its employees, this indemnity shall only apply if and to the extent that the said liability and all costs exceeds the sum for which the Company is liable pursuant to sub condition 10.2(ii)

11. WARRANTY

11.1. Any Equipment and/or Software which is found to the Company's reasonable satisfaction to be defective within the Warranty Period may, at the sole discretion of the Company, be replaced free of charge or repaired, pursuant to the Condition 6 free of charge provided that:

- (i) notice of the defect in question had been received by the Company from the Customer no later than the expiry of the Warranty Period; and
- (ii) if the defect cannot be rectified, the Equipment and/or Software is returned by the Customer, at the Customer's cost, to the Company, and any legal or beneficial ownership of the Equipment and/or Software or defect parts reverting to the Company upon replacement of the Equipment and/or Software or defective part; and
- (iii) the Equipment and/or Software has not been misused, mishandled, modified or repaired other than with the written consent of the Company.

11.2. The Company may upon the Customer's request and subject to the availability of appropriate resources:

- (i) at any time before the expiry of the said 12 months, extend the Warranty contained in the condition 11.1 for an additional period following the expiry of the Warranty Period subject to the Customer paying the Extended Warranty Fee: and
- (ii) at any time provide Support at the Customer's Premises or any other premises where the Equipment and/or Software is located but the Company shall be entitled to charge for the same by levying additional charges.

12. EXCUSABLE EVENTS

12.1. The Company will not be liable to the Customer for any breach of these terms and conditions or failure on the Company's part to perform any obligation as a result of act of God, governmental control, restrictions or prohibitions or any other government act or omission whether local or national, act or default of any supplier, agent, sub-contractor or industrial disputes of any kind or any other similar or dissimilar cause beyond the Company's control.

13. MISCELLANEOUS

13.1. Consumers

In the event the Customer deals as a consumer, nothing in these terms and conditions excludes or purports to exclude, a consumer's statutory rights.

13.2. Representations

These terms and conditions represent the complete Agreement between the Company and the Customer and supersede all representations or other communications between them relating to the subject matter of the Agreement.

13.3. Notices

The Customer must promptly advise the Company of any change of address. Any notice hereunder sent by the Company to the Customer shall be deemed to be served within 48 hours of posting. Any notice hereby sent by the Customer to the Company shall only be deemed to have been validly served on the Company if the Company shall have received the same.

13.4. Severable Contract

In the event of any of the provisions set out in these terms and conditions being unenforceable or void for any reason whatsoever each condition (including sub condition) shall be deemed to be severable from the remaining conditions and such remaining conditions shall remain in full force and effect.

13.5. Subsequent Contract

If subsequent to the execution of the Agreement the Company agrees (whether in writing, orally or otherwise) to provide the Customer with Equipment and Services similar to the Equipment and the Services in respect of any other plant or apparatus, except to the extent otherwise agreed, such contract shall be deemed to be a separate and severable contract which incorporated these terms and conditions.

13.6. Other Agreements

The termination of any other agreement with any person, firm or company by which the Customer hires, leases or rents equipment shall not affect the Agreement.

13.7. Waiver

Failure by the Company at any time to enforce provisions of this Agreement shall not be construed as a waiver of any such provision or in any way affect the validity of the Agreement in any part.

13.8. Law

These terms and conditions shall be governed and construed in accordance with English Law.

13.9. Headings

The headings for these terms and conditions are for convenience only and do not form part and shall not affect the construction of these terms and conditions or any part hereof.

13.10. Joint and Several

Where the Customer is more than one person all of the Customer's obligations under these terms and conditions shall be joint and several.

13.11. Authority

Any person signing the Particulars on behalf of the Customer warrants to the Company that they are authorised to do so.

13.12. Assignment

The Agreement is personal to the Customer and may not be assigned to anyone else. The Company may assign, transfer or novate the Agreement to any third party.

13.13. Third Parties

A party who is not party to these terms and conditions or the Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement but this does not exclude any right or remedy of a third party which exists or is available from that Act.

13.14. Images

Images for illustrative purposes only. Screenshots are updated regularly and may change to those shown on site.

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