

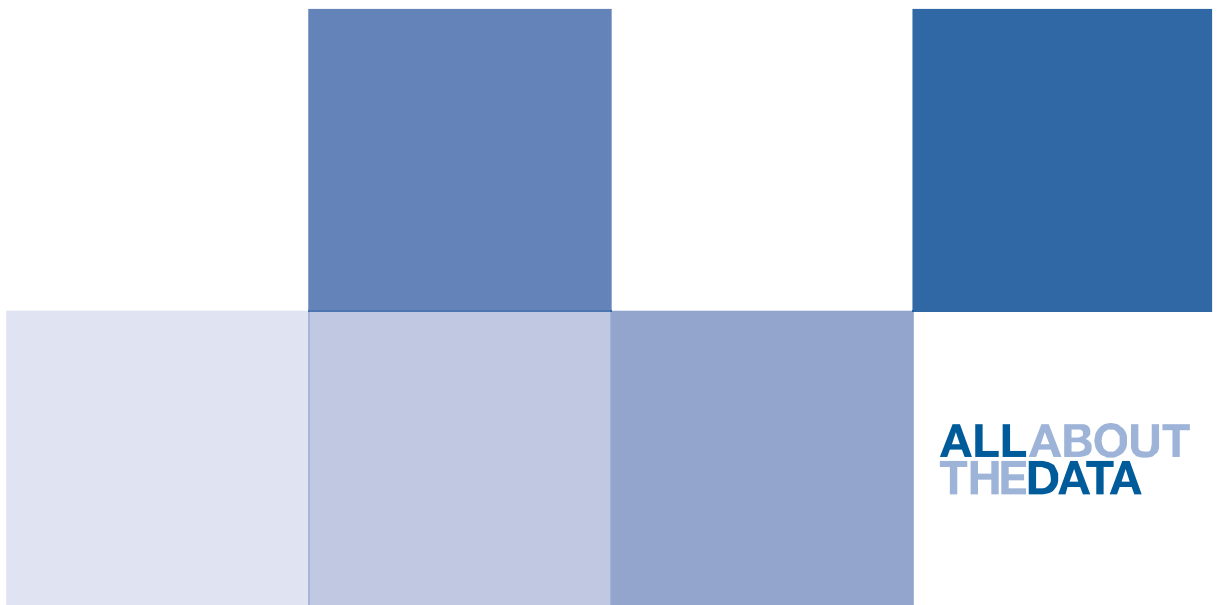


D4t4 Solutions Plc

# Standard Terms of Business

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## 1.0 DEFINITIONS

In the express terms and conditions hereinafter set out ("the Company's Standard Conditions") unless the context otherwise requires the following expressions shall have the following meanings:-

<b>"the Company"</b>	means D4t4 Solutions Plc
<b>"the Customer"</b>	means the party to whom the Company may agree to supply equipment or services in accordance with the Company's Standard Conditions
<b>"Equipment"</b>	means the articles materials or things or any of them or any part or parts of them to be supplied by the Company to the Customer
<b>"IPR"</b>	means copyrights (including software), patents, utility models, trade marks, service marks, design rights (whether registered or unregistered), database rights, proprietary information rights and all other similar proprietary rights as may exist anywhere in the world.
<b>"Services"</b>	means the services to be supplied by the Company to the Customer

## 2.0 QUOTATIONS

A quotation or estimate does not constitute an offer by the Company and may be altered or withdrawn without notice. The right is reserved to increase prices to cover increases in materials, delivery charges or other outgoings as at the date of despatch in the case of Equipment or completion in the case of Services. Prices quoted are for the quantities specified and smaller quantities may result in increased prices. Items quoted as being available from stock are subject to being unsold at the time of acceptance of order.

## 3.0 ACCEPTANCE OF ORDERS

All orders are accepted and Equipment supplied only upon and subject to the Company's Standard Conditions. Any order placed by a Customer shall constitute an offer to contract upon the Company's Standard Conditions and no addition or variation there from or contradiction thereof whether contained in the Customer's order or otherwise shall apply unless the same shall be accepted and agreed in writing by an officer of the Company authorised to sign on its behalf. No order shall be binding on the

Company unless and until accepted or confirmed in writing (including telex or facsimile transmission) by the Company.

## 4.0 PRICES

- a. Catalogues, price lists and other advertising literature or material as used by the Company are intended to provide an indication only as to price and range of Equipment and/or Services offered and no prices, descriptions or other particulars contained therein shall be binding on the Company
- b. Taxes are not included in prices quoted and the Customer shall reimburse the Company for all taxes excises or other charges which the Company may be required to pay to any government or statutory authority (national state or local) upon Equipment or Services or the sale production transportation or delivery thereof
- c. Unless otherwise specifically agreed prices do not include delivery charges to the Customer

## 5.0 SUPPLIER'S SPECIFICATION AND CONFIGURATION

- a. In respect of all Equipment manufactured and supplied to the Company by third parties the Company will pass to the Customer (sofar as possible) the benefit of any warranty given to the Company by such third parties and will (on request) supply to the Customer details of the terms and conditions of such warranty and copies of any relevant product information sheets, technical data sheets or product leaflets issued by such third parties and the Customer shall be solely responsible to the entire exclusion of the Company for complying with these. Save as aforesaid the Company will not be liable for or in respect of any loss or damage caused by, or resulting from, any variation (for whatever reason) in the Supplier's specifications or technical data and will not be responsible for any loss or damage resulting from curtailment or cessation of supply following such variation. The Company will endeavour to advise the Customer of any such impending variation as soon as it receives notice thereof from the Supplier.
- b. Unless otherwise agreed Equipment is supplied in accordance with the Supplier's standard specifications. The Company reserves the right to increase its quoted price or to charge accordingly in respect of any orders accepted for Equipment of non-standard specifications or which require configuration to the Customer's specific requirements and in no circumstances will the Company accept cancellation of orders for or the return of Equipment of non-standard specification or which has been specifically configured to the Customer's requirements.

## 6.0 PROFESSIONAL SERVICES AND SUPPORT AGREEMENTS

Project work undertaken by the Company may be supplied in accordance with a Professional Services Agreement. Support contracts undertaken by the Company are undertaken in accordance with Service Level Agreements. Where these agreements exist they will take precedent over these Terms and Conditions.

## 7.0 IPR (INTELLECTUAL PROPERTY RIGHTS)

- a. All materials, documentation, computer programs, inventions (whether or not patentable) pictures, audio, video, artistic works and all other works of authorship including all world wide rights therein under patent, copyright, design right trade secret or other property right created or developed by The Company in providing the Services (the " Work Product"), shall belong to The Company. Save for any Client Confidential Information provided, The Company shall not be obliged to return any artwork or other material supplied by The Client for the provision of Services. The Company grants an exclusive licence to The Client in perpetuity for the use of an unlimited number of copies of the Work Product.
- c. Any pre-existing proprietary item of The Company or a third party disclosed by The Company to The Client in performing the Professional Services shall remain vested in The Company (or the third party as the case may be) and the rights of The Client to use and reproduce the same are either set out herein or in a separate license which The Client hereby agrees to execute and be bound by.
- d. The Client shall retain title to and all intellectual property rights in any pre-existing or proprietary items, which are submitted by The Client to The Company for the performance of the Services.

## 8.0 SOFTWARE PRODUCTS

- a. It is the practice of Suppliers of computer software products or copies thereof ("proprietary software") to retain title to the Intellectual Property therein. The limit of the right or interest in any such proprietary software which the Customer shall receive shall be such right or licence to use or enjoy such proprietary software as may be permitted or conferred by the Company or by the owner of the Intellectual Property therein and shall be subject to the Supplier's terms and conditions relating to such use a copy of which is available from the Company on request

- b. The Company shall have no liability to the Customer in the event that any proprietary software supplied by the Company infringes the rights in Intellectual Property of a third party
- c. The Company's liability to the Customer in respect of any claim that software created by the Company (not being proprietary software) and supplied to the Customer infringes the rights in Intellectual Property of a third party shall be determined by the provisions of the licence issued by the Company to the Customer in respect of such software and shall be conditional upon the Company having sole control of the defence and all negotiations for settlement or compromise of any such claim.

## 9.0 CARRIAGE DELIVERY AND RISK

- a. The Company reserves the right to levy a charge for delivery to any destination advised by the Customer. Unless otherwise specifically negotiated the risk in the Equipment shall pass to the Customer when it is despatched from the Company's premises and no responsibility will be accepted by the Company for loss or damage of Equipment in transit save where carriage is effected by the Company's vehicles and not by third party carrier. Any claim for loss or damage in transit must be notified in writing to the Company within seven days of receipt and in the case of claims for damage the Customer must also comply with the provisions of Condition 10 below
- b. Unless otherwise quoted or listed, prices are calculated on the basis of one delivery. Specific requests for more than one delivery shall be subject to agreement by the Company, and the Company reserves the right to levy additional charges therefor. Where the Company agrees to make delivery by instalments, every instalment shall be deemed to be the subject matter of a separate contract. If the Customer requests and the Company agrees to a deferred delivery the Company reserves the right to raise a stockholding charge if specific stocks have been purchased by the Company against the Customer's order
- c. Unless otherwise specifically negotiated any times quoted for despatch are to be treated as estimates only and without prejudice, although every endeavour will be made by the Company to adhere to them. All despatch dates are calculated from the date of acceptance of the Customer's written order or from the date when all outstanding technical details have been resolved, whichever is the later.

## 10.0 TITLE

- a. All Equipment supplied to the Customer shall remain the sole and absolute property of the Company as legal and equitable owner until such time as the Company has received payment in full for such Equipment
- b. Until such time as the Customer becomes the owner of the Equipment supplied by the Company the Customer will store it on its premises in a manner which makes it readily identifiable as the Equipment of the Company and in particular will not remove from such Equipment any labels or other identifying marks placed thereon by the Company
- c. If payment in full is not made in accordance with the relevant contract terms the Company may require the Customer to return the Equipment forthwith and if the requirement is not immediately complied with the Company shall be entitled at any time before payment and without notice to retake possession of the whole or any part of the Equipment and for that purpose to enter the premises occupied by the Customer and sever the Equipment from anything to which it is attached without being liable for any damage caused thereby and without prejudice to any other remedy that may be available to the Company
- d. Nothing in this Condition shall confer any right upon the Customer to return the Equipment sold to it by the Company hereunder. The Company may maintain an action for the price notwithstanding that the property in the Equipment may not have passed to the Customer.

## 11.0 DEFECTS

- a. Unless otherwise agreed in writing where the Equipment is rejected by the Customer as not being in accordance with the Customer's order, the Company will only accept the return of such Equipment provided that:-
  - i. it receives written notice thereof, giving detailed reasons for rejection, within 14 days of receipt of the Equipment by the Customer, and if such notice is not received by the Company within the said period of 14 days the Equipment shall be deemed to have been accepted by the Customer; and
  - ii. the Returns Procedure set out in clause 11 of the Company's Standard Conditions is followed
- b. The Company will not consider any claim for compensation, indemnity, or refund until liability (if any) has been established or agreed with the Supplier and, where applicable, any relevant insurance company and under no circumstances shall the invoiced costs of the Equipment be deducted or set off by the Customer until the Company has issued a corresponding credit note; and in the case of defects or faulty workmanship in the Equipment or any part thereof, the

Customer shall not be entitled to receive any compensation credit or refund in excess of that received by the Company under any guarantee or warranty given it by the Supplier.

## 12.0 RETURNS PROCEDURE

- a. Where the Customer desires, at any time and for any reason, to return any Equipment to the Company the following procedure for return shall be complied with by the Customer (no return or purported return of Equipment to the Company by the Customer being effective for any purpose unless such procedure is complied with by the Customer)
  - i. the Customer shall, prior to despatching or returning any Equipment, notify the Company by letter, telex or telephone of its desire to return the Equipment concerned and the reason therefore;
  - ii. prior to any return of Equipment, the Customer shall obtain from the Company a designated return label, which label will contain an identification number and shall be affixed by the Customer to the Equipment (or their packaging) when returned to the Company
- b. The foregoing procedure being designated solely for administrative convenience, the issuance by the Company of any return label shall not be taken as an admission of fault and/or liability on any account whatsoever on the part of the Company in relation to any Equipment the subject of such return and shall not in any way prejudice or impair any rights which the Company may have under the terms of any applicable contractual arrangements

## 13.0 PAYMENT

- a. Save as herein expressly provided, unless otherwise specifically negotiated and agreed, all invoices to non-account holders are payable cash on delivery or
- b. against pro forma invoice. Invoices to account holders are payable net, not later than 30 days from date of invoice.
- c. The Company reserves the right to fix minimum order values and/or to charge a monthly credit account administration fee.
- d. If any sum payable to the Company is in arrears for more than 30 days after the due date, the Company reserves the right without prejudice to any other right or remedy to charge interest on such overdue sum on a day to day basis from the original due date until paid in full at the rate of 3% above the HSBC Bank base lending rate.



- e. The Customer shall notify the Company in writing within 5 days of receipt of an invoice if the Customer considers such invoice incorrect or invalid for any reason and the reasons for withholding payment, failing which the Customer shall raise no objection to any such invoice and shall make full payment in accordance with it.

## 14.0 CUSTOMER'S DEFAULT, CANCELLATIONS AND RE-SCHEDULING OF DELIVERIES

- a. If the Customer shall make default in, or commit any breach of any of its obligations to the Company or if the Customer, being an individual (or where the Customer is a firm, any partner in that firm), shall at any time commit an act of bankruptcy, or the Customer, being an incorporated body, any resolution or petition to wind up its business shall be passed or presented, otherwise than for the purposes of a scheme for reconstruction of amalgamation (previously approved by the Company), or if a liquidator or receiver or manager of such corporate body or its undertaking, property or assets (or any part thereof) shall be appointed or if the Customer shall be unable, or shall admit its inability, to meet its commitments promptly as and when due, the Company shall have the right, (without prejudice to any further or other claims or rights which the Company might have) forthwith to cancel any uncompleted order or to cancel or suspend delivery and, notwithstanding any other provisions of the Company's Standard Conditions, payments for any deliveries already made shall immediately become due
- b. Requests by the Customer for cancellation of any order or for re-scheduling of deliveries will only be considered by the Company if made in writing, and may be accepted in writing by the Company on the basis that the Customer shall indemnify the Company against all loss, costs (including the cost of labour and materials used and overheads incurred), damages, charges and expenses arising out of the order and the cancellation or re-scheduling thereof.

## 15.0 FORCE MAJEURE

The Company shall not be liable for cancellation by it of any order or any unfulfilled part thereof or for effecting partial delivery or performance if performance by the Company is prevented or delayed, whether directly or indirectly, by any cause whatsoever beyond the reasonable control of the Company, whether or not such cause existed or was foreseeable at the date of acceptance of the Customer's order.

## 16.0 LIMITATION OF LIABILITY

- a. Notwithstanding anything contained in the Company's Standard Conditions, but subject as provided below, the Company's liability to the Customer in respect of the Customer's order or contract with the Company, whether in contract or tort (including negligence or breach of statutory duty) or howsoever otherwise arising, shall be limited to the total consideration payable by the Customer to the Company for the Equipment or Services in respect of which the liability arises **PROVIDED THAT** if, and to the extent that, such liability is covered by Product Liability Insurance or Professional Indemnity Insurance taken out by the Company and operative at the time the liability arises the Company's liability shall be limited to the amount of such cover (if greater than the total consideration payable for the relevant Equipment or Services). Details of such insurance will be available on request. If the Customer requires additional insurance the Company will take reasonable steps to obtain it on the Customer's behalf and any premium payable and any other expenses incurred in obtaining such insurance shall be payable by the Customer to the Company
- b. The Customer acknowledges that the Company's obligations and liabilities in respect of the Equipment and Services are exhaustively defined in the Company's Standard Conditions, unless otherwise agreed by the Company in writing. The Customer agrees that the express obligations and warranties made by the Company in the Company's Standard Conditions are in lieu of, and to the exclusion of, any other warranty, condition, term, undertaking or representation of any kind, express or implied, statutory (including without limitation those under Sale of Goods Act 1979, Supply of Goods and Services Act 1982 or Sale and Supply of Goods Act 1994) or otherwise, relating to anything supplied or services provided under or in connection with the Company's Standard Conditions, including (without limitation) any warranty as to the care, skill, condition, quality, performance, merchantability or fitness for purpose of the Equipment or the Services or any part of them.
- c. Nothing in the Company's Standard Conditions shall operate or be construed to operate so as to exclude or restrict the liability of the Company for death or personal injury caused by reason of the negligence of the Company or its employees or agents.

## 17.0 U.S. GOVERNMENT REQUIREMENTS

The Customer is advised that Equipment may be subject to U.S. Government export regulations. Where these apply, it is the Customer's sole responsibility to obtain authorization from the U.S. Government before re-exporting the Equipment from the United Kingdom.

## 18.0 SEVERABILITY

If and to the extent that any provision or any part of a provision of the Company's Standard Conditions is illegal, void or unenforceable for any reason, then such provision or part thereof (as the case may be) shall be deemed to be severable from the remaining provisions or parts of the relevant provisions (as the case may be) which shall remain in full force and effect

## 19.0 APPLICABLE LAW

The Company's Standard Conditions and any order or contract to which they apply shall be governed by and construed in accordance with English Law.

# Document Information

## Document Control

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