

SFA – Terms of Business

1 SERVICES

VERSION 1 will provide or cause one of its Affiliates to provide to CUSTOMER the Services and the Deliverables specified in the Short-Form Agreement that accompanies these Terms of Business. Where there is any conflict between the Short-Form Agreement and these Terms of Business, the Short-Form Agreement shall prevail.

2 DEFINITIONS

- 2.1 **"Affiliates"** shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.
- 2.2 **"Agreement"** shall mean these Terms of Business and the Short-Form Agreement signed by VERSION 1 and the CUSTOMER and any addenda, documents or materials referred to therein.
- 2.3 **"Customer Data"** shall mean data relating to the business of CUSTOMER, held on CUSTOMER's computer systems.
- 2.4 **"Deliverables"** shall mean any design, specification, ideas, know-how, techniques, documentation, reports or specifications that may be developed and/or supplied by VERSION 1 hereunder.
- 2.5 **"Good Industry Practice"** shall mean the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
- 2.6 **"Intellectual Property Rights"** shall mean all intellectual property rights of whatever nature including but not limited to patents, trademarks, trade names, inventions, copyrights (including copyright in computer programs), database rights, design rights, know-how and trade secrets, whether registered or not, whether capable of registration and application for any of the foregoing.
- 2.7 **"Material(s)"** shall mean any design, specification, instruction, information, data or other like documents supplied by either party to this Agreement to the other for the performance of the Services.
- 2.8 **"Services"** shall mean the services to be performed by VERSION 1 for CUSTOMER pursuant to and described in the Agreement including the development and/or supply of the Deliverables (if any).

3 PAYMENT

3.1 Invoicing and Payment

VERSION 1 shall invoice CUSTOMER as specified in the Agreement and CUSTOMER shall pay for the Services in accordance with the payment terms and currency specified in the Agreement without set-off.

4 TERM AND TERMINATION

- 4.1 The Agreement commenced on the Effective Date and will terminate on the Agreement End Date unless terminated in accordance with Clauses 4.2-4.5 below.
- 4.2 CUSTOMER remains liable to pay all Charges and Expenses due to VERSION 1 up to the date such termination becomes effective.
- 4.3 Either party may terminate the Agreement if the other party is in material breach of the Agreement following written notice specifying the breach and where a breach capable of remedy has not been cured within thirty (30) days of such notice.
- 4.4 Either party may terminate the Agreement forthwith if the other party becomes the subject of a voluntary arrangement, has a receiver, examiner or liquidator appointed over all or any parts of it, its assets or income, or passes a resolution for its winding up, has a petition presented to any court for its

winding up or for an administrative order, or has anything

analogous to the foregoing happen in relation to it in any jurisdiction.

- 4.5 VERSION 1 may terminate the Agreement upon 30 days' notice if any invoice not in dispute remains unpaid after 60 days. This does not relieve CUSTOMER of its obligation to pay such invoice.

4.6 Effect of Termination

The parties' rights and obligations under Clauses 3, 4, 5, 7 and 8 shall survive termination of the Agreement. Termination of the Agreement shall not prevent either party from pursuing any other remedies available to it, including but not limited to injunctive relief, nor shall termination relieve CUSTOMER of its obligations to pay all charges that have accrued prior to such termination.

5 INDEMNITY, WARRANTY AND LIABILITY

5.1 Indemnity

- 5.1.1 Either party to this Agreement providing Materials ("Provider") will defend and indemnify the other party to this Agreement receiving such Materials ("Recipient") against a claim that any Materials furnished by the Provider and used by the Recipient as permitted by the terms of this Agreement infringes a third party's Intellectual Property Rights provided that (a) Recipient notifies Provider in writing within thirty (30) days of the claim; (b) Provider has sole control of the defence and all related settlement negotiations; and (c) Recipient provides Provider with the assistance, information and authority reasonably necessary to perform the above. Reasonable out-of-pocket expenses incurred by Recipient in providing such assistance will be reimbursed by Provider.
- 5.1.2 In the event that some or all of the Materials is held, notified or is believed by the Provider to infringe a third party's Intellectual Property Rights, the Provider shall have the option, at its expense (a) to modify the Materials to be non-infringing or supply or substitute non-infringing Materials to the Recipient; (b) to obtain for the Recipient the right to continue using the Materials; or (c) to require return of the infringing Materials or part thereof from the Recipient and terminate all rights thereto. If such return materially affects either party's ability to meet its obligations under this Agreement, then either party may by written notice, terminate this Agreement. If CUSTOMER is the Recipient then upon such termination CUSTOMER shall be entitled to recover the charges paid by CUSTOMER for that portion of the Materials. If VERSION 1 is the Recipient, then upon such termination VERSION 1 shall be entitled to recover the Charges for Services ordered up to the date of termination together with the costs of committed resources. This Clause 5.1 states the parties' exclusive remedy for infringement of any third party's Intellectual Property Rights.
- 5.1.3 The Provider shall have no liability for any claim of infringement resulting from (a) the Recipient's use of a superseded or altered release of some or all of the Materials if such infringement would have been avoided by the use of a subsequent unaltered release of the Materials which is provided or offered to be provided to the Recipient; or (b) any information, design, specification, instruction, software, data or materials not furnished by the Provider; or (c) use other than in accordance with this Agreement.

5.2 Warranties and SUPPLIER Responsibilities

- 5.2.1 VERSION 1 warrants that the Services will be performed in accordance with Good Industry Practice. To the extent permitted by law, all other warranties and conditions or other

terms, whether express or implied, are expressly excluded, including the implied warranties or conditions of merchantability, satisfactory quality and fitness for a particular purpose.

- 5.2.2** Both parties warrant that where participation by their respective personnel is necessary in the execution or performance of this Agreement, such personnel shall possess the appropriate skills and experience for any tasks assigned to them.
- 5.2.3** CUSTOMER shall report in detail any deficiencies in any Services or Deliverables to VERSION 1 in writing within ninety (90) days of completion or delivery of same. In the event of a breach of any warranty or term of this Agreement the CUSTOMER shall allow VERSION 1 a reasonable opportunity to correct the cause of the breach, replace any defective Deliverables or perform the Services again. VERSION 1 does not warrant that the Services and/or Deliverables will be uninterrupted or error free. CUSTOMER's exclusive remedy shall be the supply or repeat performance of the Services and/or Deliverables.
- 5.2.4** VERSION 1 shall use reasonable endeavours to provide the Services and deliver the Deliverables to the CUSTOMER in accordance with the Agreement in all material respects.
- 5.2.5** VERSION 1 shall use reasonable endeavours to meet any performance dates specified in the Agreement but any such dates shall be estimates only and time for performance by VERSION 1 shall not be of the essence for this Agreement.
- 5.2.6** Both parties warrant and represent that they have the full power and authority to enter into this Agreement.

5.3 Limitation of Liability

- 5.3.1** Nothing in this Agreement shall limit either party's liability for: (i) personal injury or death caused by its negligence; (ii) fraud or fraudulent misrepresentation, or (iii) infringement of a third party's Intellectual Property Rights.
- 5.3.2** Unless otherwise expressly stated in this Agreement, and whether or either party has been advised of the possibility of such loss, neither party shall be liable in contract, tort or otherwise for:
- (a) Indirect or consequential loss;
 - (b) Loss of revenue;
 - (c) Loss of profits;
 - (d) Loss of business, reputation or good-will;
 - (e) Loss of use or corruption of software, data or information;
 - (f) Loss of availability or use;
 - (g) Special loss or damage;
 - (h) Loss of contracts;
 - (i) Loss of customers; or
 - (j) Loss of time or resources,
- arising out of or in connection with or in relation to the provision of the Services or otherwise under, in connection with or in relation to this Agreement.
- 5.3.3** Subject to Clauses 5.2.3, 5.3.1 and 5.3.2 above, VERSION 1's maximum aggregate liability in contract, tort or otherwise arising out of or in connection with the Services or otherwise under, in connection with or in relation to this Agreement shall be limited to the Charges paid for the Services provided under the Agreement.

6 CUSTOMER OBLIGATIONS

- 6.1** Where any Services are to be carried out at the CUSTOMER's premises then the CUSTOMER shall, subject to compliance by VERSION 1's personnel with CUSTOMER's reasonable security requirements, allow VERSION 1 full and complete access to the area(s) where Services are to be performed and will provide adequate office accommodation and facilities for any VERSION 1 staff working on its premises as required.
- 6.2** The CUSTOMER will provide VERSION 1 in a timely manner with all necessary co-operation, information, documents, materials, equipment, data and support that may reasonably be required by VERSION 1 for the performance of its obligations hereunder,

at such times as VERSION 1 requests. The CUSTOMER will not provide VERSION 1 with any access to its computer systems or its personal data as such access is outside the scope of the Agreement.

- 6.3** Unless stated to the contrary in the Agreement, CUSTOMER shall be obliged to effect and maintain its own back-up and archival copies of all Customer Data, and VERSION 1 shall have no obligation in relation thereto.

7 INTELLECTUAL PROPERTY

- 7.1** The Intellectual Property Rights in any Deliverables created as part of the Services will vest in the CUSTOMER upon payment in full by CUSTOMER for those Deliverables save to the extent that the Deliverables contain Background IPR.
- 7.2** Prior to payment in full for all Deliverables created as part of the Services, VERSION 1 will retain the Intellectual Property Rights in all such Deliverables.
- 7.3** Subject to Clause 8.1 "Non-Disclosure," the CUSTOMER hereby grants a non-exclusive, perpetual, irrevocable royalty free licence to VERSION 1 to use, modify, sub-licence, re-utilise and commercialise such Deliverables.
- 7.4** The Intellectual Property Rights in any Deliverables provided by VERSION 1 to CUSTOMER under the Agreement, which existed, and were vested in VERSION 1, prior to the commencement of Services ("Background IPR"), will remain vested in VERSION 1. VERSION 1 hereby grants a limited, non-exclusive, non-transferable, non-licencable, royalty free licence to CUSTOMER to use such Deliverables.
- 7.5** The Intellectual Property Rights in any Customer Data will remain vested in the CUSTOMER.

8 GENERAL

8.1 Non-Disclosure

The parties may provide to one another information that is confidential ("Confidential Information"). Confidential Information shall be limited to information clearly identified as confidential. Confidential Information shall not include information which (a) is or becomes part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; (d) is independently developed by the other party or (e) is disclosed by operation of law. The parties agree to hold each other's Confidential Information in confidence while the Services are being performed and for a period of five (5) years thereafter.

8.2 Relationship between the Parties

- 8.2.1** VERSION 1 is an independent contractor; nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes. Each party will maintain appropriate employer's liability and public liability insurance.
- 8.2.2** CUSTOMER agrees that it will not, whether directly or indirectly through another person, entity or agency, engage or solicit the employment or services of any person or entity engaged or employed by VERSION 1 who will have been assigned or worked under this Agreement, nor will it directly or indirectly induce such person or entity to terminate their employment or relationship with VERSION 1. This Clause is enforceable throughout the entire term of this Agreement and for a period of six (6) months after expiration, cancellation or termination of this Agreement. Where CUSTOMER breaches this Clause, it shall pay to VERSION 1 upon demand, as liquidated damages, a sum equal or equivalent to the latest gross annual remuneration or fees of the person or entity concerned. VERSION 1's staff are not,

nor will they be deemed to be at any time during the term of this Agreement, the employees of CUSTOMER. This clause shall not apply where it would cause CUSTOMER to contravene any employment law.

8.3 Ethical Business practice

Both parties shall comply with all applicable laws, relating to: (i) anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and (ii) anti-slavery and human trafficking including but not limited to the Modern Slavery Act 2015.

8.4 Governing Law

8.4.1 Where Version 1 Software Limited is the VERSION 1 contracting entity, this Agreement and all matters arising out of or relating to this Agreement shall be governed by and interpreted in accordance with the laws of Ireland. The parties agree to submit to the exclusive jurisdiction of the courts of Ireland.

8.4.2 Where Version 1 Solutions Limited is the VERSION 1 contracting entity, this Agreement and all matters arising out of or relating to this Agreement shall be governed by and interpreted in accordance with the laws of England and Wales. The parties agree to submit to the exclusive jurisdiction of the courts of England.

8.5 Notice

All notices, including notices of address change, required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by prepaid registered mail to the first address listed in this Agreement (or such address as may be notified and agreed).

8.6 Severability

In the event any provision or part thereof of this Agreement is held to be invalid or unenforceable, the remaining provisions or parts thereof of this Agreement will remain in full force and effect.

8.7 Waiver

The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

8.8 Entire Agreement

This Agreement constitutes the complete agreement between the parties and supersedes all previous agreements, proposals or representations, written or oral, concerning the Services and the Deliverables. The parties warrant to each other that the complete agreement and understanding of the parties related thereto is contained in the terms of this Agreement.

8.9 Electronic Signatures

Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature

means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including email electronic signatures.

8.10 Amendments

This Agreement may not be modified or amended except in writing signed by a duly authorised representative of each party. It is expressly agreed that any terms and conditions of CUSTOMER's purchase order or otherwise, shall be superseded by the terms and conditions of this Agreement.

8.11 Disputes

8.11.1 Where Version 1 Software Limited is the VERSION 1 contracting entity, any disputes between the parties, about any matter relating to the performance of this Agreement (other than in relation to the payment of fees or expenses) which cannot be resolved by the parties within thirty (30) days of notice of the dispute being served on the other party will be referred to the arbitration of a single arbitrator agreed between the parties, or on the failure of the parties to agree within thirty (30) days of a written request by one party to the other, appointed on the application of either party by the then President of the Law Society of Ireland at the time of the application in accordance with and subject to the provisions of the Arbitration Acts 2010. The decision of the arbitrator shall be final and binding on the parties and may be made an order of court at the insistence of either party. The costs, fees, charges and expenses incurred in respect of the arbitration including the legal costs of each of the parties will be at the discretion of the arbitrator.

Where Version 1 Solutions Limited is the VERSION 1 contracting entity, any disputes between the parties, about any matter relating to the performance of this Agreement (other than in relation to the payment of fees or expenses) which cannot be resolved by the parties within thirty (30) days of notice of the dispute being served on the other party will be referred to the arbitration of a single arbitrator agreed between the parties. In the event of a failure of the parties to agree on a single arbitrator within thirty (30) days of a written request by one party to the other, the dispute shall be referred to and finally resolved by arbitration under the London Court of International Arbitration ('LCIA') Rules, which Rules are deemed to be incorporated by reference into this Agreement. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. The decision of the arbitrator shall be final and binding on the parties and may be made an order of court at the insistence of either party. The costs, fees, charges and expenses incurred in respect of the arbitration including the legal costs of each of the parties will be at the discretion of the arbitrator.