

1. DEFINITIONS AND INTERPRETATION

1.1 In these AIRWAVEPTs the following words and phrases shall have the following meanings:

Acceptance has the meaning given to it in Schedules 1, 2, 3 and/or 4 (as appropriate);

Agreement agreement between AIRWAVE and Supplier made via a PO;

Change of Control any change in control of the Supplier, "control" having the meaning attributed to it in Section 840 of the Income and Corporation Taxes Act 1988;

Charges charges payable for the Deliverables as set out in the PO;

Completion Date(s) dates set for the delivery and/or provision of Deliverables in the PO, or as otherwise agreed by the Parties;

Confidential Information as described in clause 27;

Defect a material error, omission, failure, inefficiency or inconsistency in a Deliverable (and "Defective" is construed accordingly);

Deliverables Goods, Services, Licensed IPR and/or Software (as the context requires);

Documentation documentation, if any, required for the proper use of the Deliverables;

EFM an event of force majeure being one or more of the following: riot; civil unrest, military action, terrorism, earthquake, storm, flood, inability to obtain supplies of power, fuel, or transport; exercise of emergency powers by any governmental authority;

Employment Liabilities losses, costs, claims, demands, awards, fines, liabilities or expenses (including reasonable legal expenses) arising from the employment of any person, the termination of such employment, the operation and/or termination of any collective agreement, any dispute which relates to such employment or collective agreement or their termination and any failure to discharge in full any obligation to inform or consult appropriate representatives or any person about the transfer of employees under TUPE;

Future Supplier any third party providing deliverables to AIRWAVE similar to the Deliverables following the expiry or termination of an Agreement;

Goods goods to be supplied under an Agreement, and where relevant includes any Documentation supplied to aid use of such goods;

Group in respect of a Party, and any company which is a subsidiary or a holding company of that Party, and any company which is a subsidiary of such holding company, the terms subsidiary and holding company having the meanings given in Sections 736 and 736A of the Companies Act 1985 as amended;

IPRs any rights subsisting in any patent, petty patent, trade mark, service mark, design right, registered or unregistered design including any applications for the foregoing, copyright, databases, know-how and other trade secret rights, trade or business names and other industrial or intellectual property rights subsisting anywhere in the world;

Licensed IPR the IPR to be licensed to AIRWAVE under an Agreement as described in the relevant PO;

Manufacturer the manufacturer of Goods (whether or not Supplier);

Media the media on which the Software and related Documentation are recorded or printed as provided by Supplier to AIRWAVE;

AIRWAVE the company in whose name a PO (by which an Agreement is made) is placed, in the relevant Agreement which shall be AIRWAVE SOLUTIONS Limited a company registered to do business in England and Wales (company number 3985643) having its registered office is at Level 11 Nova South, 160 Victoria Street, London, SW1E 5LB ;

AIRWAVE Policies AIRWAVE's ethical and environmental policies and any other relevant policies as advised by AIRWAVE from time to time;

AIRWAVE Premises premises belonging to or in the control of AIRWAVE or such other premises as may be stated on a PO;

AIRWAVEPTs these AIRWAVE purchasing terms as the same may be varied from time to time pursuant to clause 2, a copy of which appears on the AIRWAVE Website;

AIRWAVE Website <http://www.airwavesolutions.co.uk>;

Party either AIRWAVE or Supplier and "Parties" shall mean both of them;

PO an AIRWAVE purchase order;

Services the services to be provided under an Agreement described in the PO;

Software the software to be supplied (whether licensed or assigned) under an Agreement and where relevant, includes any Documentation supplied to aid use of such software;

Specifications the description or specification of the Deliverables as agreed between AIRWAVE and Supplier in writing and signed on behalf of both parties (an original signed copy of which has been provided to AIRWAVE), in each case identified by a Specification Serial Number;

Specification Serial Number the unique serial number for the Specifications set out in the Specifications and referenced in the PO;

Supplier supplier named in the PO;

Supplier Personnel any person used by Supplier to perform its obligations under an Agreement;

TUPE the Transfer of Undertakings (Protection of Employment) Regulations 2006 as re-enacted amended or consolidated from time to time;

Warranties the warranties provided by Supplier in relation to the Deliverables and those set out in Schedules 1, 2, 3 and/or 4 (as appropriate), and "Warranty" shall mean each of them;

Warranty Period has the meaning given to it Schedules 1, 2, 3 and/or 4 (as appropriate); and

Working Day between the hours of 0900 and 1730 on any day (other than a Saturday or Sunday) on which the clearing banks are open for normal banking business in England.

1.2 In these AIRWAVEPTs (unless the context requires otherwise): (a) any reference to a clause is to the relevant clause of these AIRWAVEPTs, (b) any reference to a Schedule is to a schedule of these AIRWAVEPTs, (c) headings are included for convenience only and shall not affect the construction or interpretation of these AIRWAVEPTs, (d) any reference to "persons" includes natural persons, firms, partnerships, bodies corporate, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether incorporated and whether or not having separate legal personality), and (e) references to any statute, statutory provision or statutory instrument include a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it all as from time to time amended, consolidated or re-enacted.

2. INCORPORATION OF TERMS AND ORDER OF PRECEDENCE

These AIRWAVEPTs are incorporated into and shall govern (to the exclusion of all other terms, including without limitation any terms appearing on Supplier's invoices or other paperwork) each and every Agreement. No conduct by AIRWAVE shall be deemed to constitute acceptance of any terms put forward by Supplier or any other terms. AIRWAVE shall be deemed to vary the terms and conditions set out herein from time to time and any such variation shall be binding upon Supplier with effect from the date at which the AIRWAVEPTs as set out on the AIRWAVE Website are updated to reflect the relevant variation. It shall be the Supplier's responsibility to visit the AIRWAVE Website periodically from time to time for the purpose of familiarising itself with the current AIRWAVEPTs. AIRWAVE hereby agrees to buy, and Supplier hereby agrees to supply the Deliverables in accordance with and subject to this clause. To the extent that any of the terms agreed and set out on a PO is inconsistent with any provision of these AIRWAVEPTs, the variable details set out in a PO shall prevail. In the event of any inconsistency between an Agreement and another agreement which has been entered in to between AIRWAVE and Supplier and to which an AIRWAVE contract number commencing "AIRWAVEUK" has been allocated by AIRWAVE, the terms of such agreement shall prevail. For the avoidance of doubt, Supplier's Agreement is with AIRWAVE and nothing contained herein shall amount to a guarantee of AIRWAVE's obligations by any other member of the AIRWAVE Group.

3. CHANGES IN REQUIREMENTS

Acting reasonably, AIRWAVE may at any time direct, by prior notice in writing, changes to an Agreement. If any such change causes an increase or decrease in the cost of or timing required to provide the Deliverables, either Party (acting reasonably) shall be entitled to request an equitable adjustment to the Charges or Completion Date or both. Any request by Supplier for adjustment under this clause must be made within 15 days from the date of receipt by AIRWAVE of the notification of change.

Supplier shall not change Specifications of Deliverables without prior written consent of AIRWAVE (not to be unreasonably withheld).

4. RELEVANCE OF SCHEDULES

These AIRWAVEPTs (including the Schedules) shall apply to the sale and purchase of Deliverables as follows:

- The supply of Goods shall be subject to the additional terms of Schedule 1
- The provision of Services shall be subject to the additional terms of Schedule 2.
- The licence of Software shall be subject to the additional terms of Schedule 3.
- The licence of Licensed IPRs shall be subject to the additional terms of Schedule 4.

For the avoidance of doubt, Schedules 1 to 4 are not mutually exclusive. Accordingly, one or more of Schedules 1 to 4 may apply to the supply of each Deliverable (or part thereof).

5. AIRWAVE POLICIES

- 5.1 In providing Deliverables, Supplier shall use its best endeavours to observe the AIRWAVE Policies in all material respects.
- 5.2 If so required by AIRWAVE, the Supplier will demonstrate to AIRWAVE that it maintains policies which align with the requirements of the AIRWAVE Policies.
- 5.3 AIRWAVE may terminate any Agreement immediately by notice in writing by AIRWAVE if Supplier is in material or continuing breach of the AIRWAVE Policies.

6. CHARGES AND PAYMENT TERMS


- 6.1 Charges shall be as set out in the PO and shall remain fixed until completion of an Agreement. Except as expressly stated herein, all Charges are exclusive of VAT (if any) but otherwise fully inclusive including without limitation: (a) all royalties, licences fees or other expenses arising from the use or sub-licence (if permitted) by AIRWAVE, any member of the AIRWAVE Group, their employees, sub-contractors or agents of any IPRs supplied by Supplier for the purpose of performing an Agreement, (b) supply and, where applicable delivery, off-loading and installation, and (c) in the case of Goods, delivery DDP AIRWAVE's premises per Incoterms 2000 (as may be renewed or replaced). Supplier shall, following Acceptance of any Deliverables, be entitled to submit an invoice for the appropriate Charge. Each invoice shall contain the particulars required by statute in respect of VAT, the Specification Serial Number, the PO number and any other particulars prescribed in the PO and shall be sent to the address specified in the PO. Payment of a correct invoice submitted in accordance with this clause shall be made by AIRWAVE within 40 Working Days from the date of receipt. AIRWAVE reserves the right to refuse payment of part or all of any invoice which is not submitted in accordance with these AIRWAVEPTS. If either party fails to pay any amount due on time, the other party shall be entitled to charge and receive interest at a rate of 2% per annum above the base lending rate from time to time of Barclays Bank plc such interest shall accrue from the due date until the date of payment and shall be calculated on a daily basis.
- 6.2 AIRWAVE and the Supplier agree that the remedies set out in the PO (Liquidated Damages) (if any) are a genuine pre-estimate of the loss that AIRWAVE will suffer in the event of a failure or delay in delivery by the Supplier.

7. TERMINATION

- 7.1 **Any** Agreement may be terminated immediately by notice in writing by either Party if the other Party is in material or continuing breach of any of its obligations.
- 7.2 Any Agreement may be terminated by either Party if any of the following events (or any event analogous to any of the following occurs in a jurisdiction other than England and Wales) occurs in respect of the other Party: (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or for the assignment for the benefit of, its creditors; (b) a shareholder's meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); (c) a petition is presented for its winding up (which is not dismissed within fourteen (14) days of its service) or for the making of an administration order, or an application is made for the appointment of a provisional liquidator or a creditor's meeting is convened pursuant to s.98 of Insolvency Act 1986; (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or (e) it is or becomes insolvent within the meaning of s.123 Insolvency Act 1986.
- 7.3 In the case of an Agreement related to Goods, AIRWAVE shall be entitled without cost or liability to terminate an Agreement in respect of all or part of a PO at any time up to 30 Working Days prior to the agreed date for shipping of the Goods by serving written notice on Supplier. In the case of an Agreement relating to Deliverables other than Goods, AIRWAVE shall be entitled without cost or liability to terminate the Agreement in respect of all or part of a PO at any time by serving 30 Working Days' notice on the Supplier. In the event that AIRWAVE terminates an Agreement or any part of an Agreement pursuant to this Clause and without limiting clause 7.5 below, AIRWAVE shall pay the reasonable costs and expenses incurred by the Supplier in connection with the Agreement or part which has been terminated up to the date of termination provided always that the Supplier shall have an obligation to mitigate such costs and expenses and to demonstrate to AIRWAVE's reasonable satisfaction that the same have been incurred.
- 7.4 If at any time during the term of an Agreement the Supplier is subject to a Change of Control, AIRWAVE shall be entitled to terminate absolutely that Agreement without penalty immediately by notice in writing.
- 7.5 If an Agreement is terminated for any reason: (a) any sums due to AIRWAVE shall become immediately payable by Supplier without set-off or deduction; (b) Supplier shall return to AIRWAVE all tangible property and Confidential Information belonging to AIRWAVE in its possession, custody or control and AIRWAVE shall return to Supplier all of its tangible property and Confidential Information in its possession, custody or control; (c) each Party will cease use of the other Party's Confidential Information and IPR; and (d) each Party will, at its sole option, either return or destroy all records, documentation, data, and any other information and all copies thereof which are owned by or licensed to the other Party, and on the other Party's request, a director of the returning/destroying Party shall certify in writing that the Party has complied with this clause.
- 7.6 Termination will not prejudice or affect any right of action or remedy already accrued to either Party.
 - a. Notwithstanding any termination of an Agreement the provisions which by their nature are intended to survive such termination will remain in full force and effect including without limitation the obligations of confidentiality.
 - b. If a Party (the first Party) is prevented from performing its obligations under an Agreement by an EFM which continues for more than 30 days, then the other Party will be entitled to terminate that Agreement without liability to the first Party forthwith on giving written notice of termination to the first Party.

8. FORCE MAJEURE

- 8.1 Subject to the remaining provisions of this clause, to the extent that either Party is prevented from performing its obligations under an Agreement by an EFM beyond such Party's reasonable control, such Party's obligation to perform its obligations under that Agreement will (during the continuation of the EFM) be read and construed as an obligation to perform such obligations to the best level reasonably achievable in the circumstances.

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- 8.2 Notwithstanding clause 8.1, if Supplier claims that it is affected by an EFM, such claim shall be valid only to the extent that a prudent supplier operating to standards expected of a leading supplier of the Deliverables in question could not have foreseen and prevented or avoided the effect of such event or occurrence.
- 8.3 A Party claiming to be affected by an EFM will not be entitled to invoke the provisions of clause 8.1 unless it performs fully the following obligations: (a) on becoming aware of any EFM it shall have notified the other Party by the most expeditious method then available, giving details of the EFM, the obligations on its part which are affected and its reasonable estimate of the period for which such failure or delay will continue; and (b) it takes all reasonable steps to prevent, avoid, overcome and mitigate the effects of such EFM.

9. INDEMNITY

- 9.1 Supplier shall indemnify AIRWAVE against: (a) all claims, liability, demands, proceedings, costs and expenses arising as a result of any act or omission of Supplier in the performance or purported performance of the Agreement, except to the extent such claims, liability, demands, proceedings, costs or expenses are directly attributable to the negligence of AIRWAVE; and (b) against any costs, damages, liabilities, losses or expenses (including legal expenses) incurred by AIRWAVE and arising from any legal actions, claims or demands brought against AIRWAVE by any third party which state that AIRWAVE's (or its sub-contractors or agents) possession and/or use of the Deliverables or Documentation (or any part thereof) infringes any IPRs of a third party (a "Claim"). If a Claim is made: (A) AIRWAVE shall: (i) inform Supplier of it; (ii) provide Supplier (at Supplier's expense) with such assistance as Supplier may reasonably require in connection with defending the same; and (iii) make no admission of liability without Supplier's prior written consent (such consent not to be unreasonably withheld); and (B) Supplier shall (i) replace the infringing material with non-infringing material that functions and performs at least as well as the infringing material and complies with any relevant Specification or other requirements of an Agreement, or (ii) obtain the right for AIRWAVE lawfully to possess and use in accordance with the provisions of these AIRWAVEPTs all the relevant Deliverables and/or documentation and to exercise the rights granted under an Agreement. In the event that Supplier is unable to provide either of the remedies set out in B(i) or B(ii) above to AIRWAVE's satisfaction, Supplier shall refund to AIRWAVE all amounts paid to Supplier under the applicable Agreement.
- 9.2 The following matters shall be excluded from the indemnity contained in clause 9.1 above (except to the extent that such matters are contemplated and agreed by the Parties having regard to the provisions of an Agreement, and Supplier's actual knowledge of AIRWAVE's intentions as to the use of Deliverables): (i) infringements arising directly from the use of Confidential Information supplied by AIRWAVE, where Supplier's use of such Confidential Information in the performance of an Agreement is the sole and direct cause of such infringement; (ii) infringements arising from the modification of the Deliverables or Documentation by AIRWAVE where such modification is not authorised by or within the reasonable contemplation of Supplier and the claimed infringement arises solely and directly from such modification.

10. CAP ON LIABILITY

- 10.1 Nothing shall exclude or limit the liability of either Party for the death or personal injury caused by its negligence, or for fraud, or for any other liability that may not be excluded or limited by law.
- 10.2 Except for the liability of the Supplier under clause 9, the aggregate liability of either Party to the other under an Agreement for all losses, damages, costs, claims or expenses suffered by the other arising out of or in connection with any breach by such Party of the terms of an Agreement or any tort or breach of statutory duty in connection with such Party's obligations under an Agreement shall be limited in the following ways: (a) the amount recoverable shall be no more than the greater of £2,000,000 or 125% of the total of all sums paid or due to Supplier for Deliverables in any 12 month period in which the circumstances giving rise to such claim(s) arise(s), and (b) neither Party shall be liable to the other in respect of any loss of revenue, profits or business, loss of data, or any indirect or consequential loss, irrespective of whether such loss was foreseeable or whether the Party has been advised of the possibility that such loss may be incurred.

11. ENTIRE AGREEMENT

An Agreement shall constitute the entire agreement between the Parties in respect of matters dealt with in it and supersedes any previous agreement, written or oral, between the Parties relating to such matters. Each of the Parties acknowledges and agrees that in entering into an Agreement, and the documents referred to in it, it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to an Agreement or not) other than as expressly set out in an Agreement.

12. SEVERABILITY

If any of the provisions of an Agreement is judged to be invalid, illegal or unenforceable, the continuation in full force and effect of the remainder of that Agreement will not be prejudiced but such provision will be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the Parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties as set out herein.

13. WAIVER

No forbearance or delay by either Party in enforcing its respective rights will prejudice or restrict the rights of that Party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

14. RELATIONSHIP OF THE PARTIES

The relationship between AIRWAVE and Supplier is that of purchaser and supplier. Nothing in an Agreement is intended to create a partnership or joint venture of any kind between the Parties, or to authorise either Party to act as agent for the other. Save where expressly so stated in an Agreement neither Party will have authority to act in the name of or on behalf of or otherwise to bind the other.

15. ASSIGNMENT AND SUB-CONTRACTING

- 15.1 Subject to 15.2, neither Party shall be entitled to assign, novate or otherwise to transfer any of its rights and/or obligations under an Agreement without the prior written consent of the other Party (not to be unreasonably withheld).
- 15.2 15.2 AIRWAVE shall be entitled to assign, novate or otherwise to transfer any or all of its rights and/or obligations under an Agreement to any member of the AIRWAVE Group provided that it shall give written notification to Supplier of any exercise of its rights under this clause.

16. THIRD PARTY RIGHTS

The Parties intend that a person who is not a Party to an Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of an Agreement.

17. NOTICES

Any notice given under an Agreement by either Party to the other must be in writing and must be delivered either personally or by recorded delivery post or first class post. In the case of post such notice will be deemed to have been given 2 Working Days after the date of posting. Notices will be delivered or sent to the addresses of the Parties on the PO or to any replacement address notified in writing by either Party. Each Party may specify by notice in writing to the other a particular individual or office holder to whom any notices served on it are to be addressed in which event a notice will not be validly given unless so addressed.

18. DOCUMENTATION

Supplier shall provide AIRWAVE with all information required in order to enable AIRWAVE to understand and operate the Goods or Software (including, but not limited to installation, commissioning, operation and maintenance). AIRWAVE shall have the right to copy, reproduce and generally use the Documentation for AIRWAVE's business purposes and the implementation and operation of the Goods and Software. The right to copy, reproduce and use the Documentation shall also extend to the AIRWAVE's third party suppliers provided that such use is required for the purposes of providing services to AIRWAVE or AIRWAVE's customers.

19. SECURITY

Supplier shall ensure that Supplier Personnel conform to all security, safety and works regulations and such other local instructions, as may be notified by whilst on any AIRWAVE Premises or customer premises. AIRWAVE may (a) remove from and refuse entry and re-admission to any AIRWAVE Premises, any person who is, in the reasonable opinion of AIRWAVE, not conforming with these requirements or is otherwise not a fit person to be allowed on premises; and/or (b) search any Supplier Personnel, their vehicles, or Goods upon any AIRWAVE Premises or upon entry to and departure from any AIRWAVE Premises. Supplier shall use its best endeavours to ensure that Supplier Personnel are aware of and comply with these requirements and that no Supplier Personnel unwilling to comply will be employed on any AIRWAVE Premises.

20. AUDIT

Supplier shall, subject to agreeing confidentiality terms substantially similar to those in an Agreement, permit AIRWAVE (and its agents) to inspect, review, verify and take copies of any associated records and documentation in the control or possession of Supplier relating to the provision of the Deliverables for the purpose of auditing the work provided for under an Agreement.

21. EMPLOYMENT LIABILITIES

If at any time during the course of an Agreement or following the termination or expiry of an Agreement it is found or alleged that any Supplier Personnel is or has become an employee of AIRWAVE or a Future Supplier pursuant to TUPE or otherwise then Supplier shall indemnify AIRWAVE (for itself and as trustee for any Future Supplier) and keep it indemnified in full against any and all Employment Liabilities arising out of or in connection with any claim or demand by such Supplier Personnel or any trade union, staff association, worker's committee or any other worker representative who represents or purports to represent any or all of the Supplier Personnel.

22. SET-OFF

22.1 Each Party shall be entitled to set off any liability owed to it by the other Party against any liability it may owe to such other Party.

22.2 In the case of any member of AIRWAVE's Group, it shall further be entitled to set off any liability that it owes to the other Party against any liability such party owes to any member of AIRWAVE's Group.

22.3 Immediately upon any liability being owed to a Party by any member of AIRWAVE's Group (the "Owing AIRWAVE Group member") in circumstances where there is a concurrent liability of that Party to any other member of AIRWAVE's Group (the "Receiving AIRWAVE Group member"), there shall be deemed to have taken place at that point in time an equitable assignment of such monies as are due (or such part of any cause of action arising) by the Receiving AIRWAVE Group member to the Owing AIRWAVE Group member as:

22.3.1 is sufficient to extinguish the obligations due to the Party; or

22.3.2 Can be assigned to minimise the obligations due to the Party (where they cannot be extinguished in full).

22.4 Neither Party shall be obliged to give effect to an equitable assignment pursuant to clause 22.3 in its dealings with the other Party unless notice of the same has been given by Party seeking to rely on the assignment pursuant to the terms of the Law of Property Act 1925. In the absence of such notice, it shall be good discharge by a Party to perform its obligations to the original Group member that it owes such obligations to.

22.5 To the extent that there are any contractual relations between a Party and any member of AIRWAVE's Group entitling any AIRWAVE Group member to exercise a right of set off as above in respect of any monies due and/or owing, such relations shall be deemed to give rise to mutual credits, mutual debts or other mutual dealings between one Party and the other Party.

22.6 Any exercise by a party of its rights under this clause shall be without prejudice to any other rights or remedies available to it under an Agreement.

23. ANNOUNCEMENTS AND PUBLICITY

Neither Party shall make any announcement relating to an Agreement nor its subject matter without the prior written approval of the other Party except as required by law or regulatory authority.

24. GOVERNING LAW AND JURISDICTION

Each Agreement shall be governed by and interpreted in accordance with English Law and the Parties submit to the exclusive jurisdiction of the English Courts provided that AIRWAVE may apply to any court of competent jurisdiction to defend its IPRs.

25. COMPLIANCE WITH LAWS

In performing its obligations under an Agreement, Supplier shall comply with all applicable laws, rules and regulations of governmental entities, including any health and safety legislation and environmental legislation, having jurisdiction over such performance.

26. EURO COMPLIANCE

All Deliverables related to financial information shall be compliant with all laws and regulations applicable to all relevant currencies (including, without limitation, EC Regulations 1103/97 and 974/98), and if the UK becomes a "Participating Member State" (as defined in EC regulation 1103/97), all laws and regulations then applicable to sterling and/or to the euro, such compliance being "Euro Conformance". Notwithstanding anything to the contrary in these AIRWAVEPTs, and without prejudice to any of AIRWAVE's other rights and remedies, AIRWAVE shall not be obliged to accept nor to pay for Deliverables if Supplier is unable to demonstrate their Euro Conformance to AIRWAVE's reasonable satisfaction.

27. CONFIDENTIALITY AND DATA PROTECTION

27.1 Supplier shall ensure that disclosure of the Confidential Information is restricted to those employees, directors or contractors of Supplier, and/or members of its Group who need access to the Confidential Information for the purposes of an Agreement. Copies or reproductions of the Confidential Information shall not be made by Supplier except to the extent reasonably necessary for the purposes of such Agreement and all copies made shall be the property of AIRWAVE. Supplier shall return all Confidential Information and any copies to AIRWAVE within 30 days of receipt of a written request from AIRWAVE, and on AIRWAVE's request, a director of Supplier shall certify in writing that Supplier has complied with this clause. In this clause "Confidential Information" shall mean product, business, market, strategic or other information or data (including but not limited to information retained on all types of medium including written, diagrammatical, software or other storage medium) relating to an Agreement or the business or affairs of AIRWAVE disclosed whether in writing, orally or by any other means, and whether or not that information is marked "confidential" to Supplier by AIRWAVE excluding any information which: (a) is in or comes into the public domain in any way without breach of such Agreement by Supplier; (b) Supplier can show was in its possession or known to it prior to receipt from AIRWAVE; (c) Supplier can show was developed by or for Supplier at any time independently of any information disclosed to it by AIRWAVE; (d) Supplier obtains or has available from a source other than AIRWAVE without breach by Supplier or such source of any obligation of confidentiality or non-use towards AIRWAVE; (e) is hereafter furnished by AIRWAVE to a third party without restriction on disclosure or use; or (f) is disclosed by Supplier with the prior written approval of AIRWAVE in accordance with the terms of such written approval. Supplier shall maintain Confidential Information in confidence and shall exercise in relation to the Confidential Information no lesser security measures and degree of care than those which Supplier applies to its own confidential information, which Supplier warrants as providing the protection required by these AIRWAVEPTs against unauthorised disclosure, copying or use.

27.2 Each party shall comply with obligations that apply to it under Applicable Data Protection Law.

28. INSURANCE

Supplier shall have in force and shall maintain a policy of insurance in respect of its liabilities under an Agreement with a limit of indemnity not less than £2,000,000 for any one claim arising out of any one incident or event and without limit as to the number of claims during the period of insurance.

29. INTELLECTUAL PROPERTY RIGHTS

29.1 All IPRs: (i) in information supplied to Supplier by AIRWAVE and/or its subcontractor(s) for the purposes of Supplier performing its obligations under this Agreement; and (ii) developed in connection with the delivery of any Goods, Software and/or the provision of Services pursuant to this Agreement, shall vest in and remain with AIRWAVE and/or its sub-contractor(s) as the case may be.

29.2 All IPRs in information supplied by the Supplier and/or its subcontractor(s) authorised by the terms of an Agreement (if any) for the purposes of and in performing the Services shall vest in and remain with the Supplier and/or its sub-contractor(s) as the case may be.

30. SURVIVAL OF PROVISIONS

Clauses 9, 10, 21, 24, 27 and paragraph 3 of Schedule 3 and paragraph 3 of Schedule 4 of an Agreement shall survive termination of that Agreement, for whatever reason.

SCHEDULE 1 - ADDITIONAL TERMS RELATING TO THE SUPPLY OF GOODS

1. RIGHT TO INSPECT

Supplier shall at AIRWAVE's request allow AIRWAVE to inspect and test the Goods prior to despatch to the AIRWAVE Premises. If as a result of any inspection or testing AIRWAVE is not satisfied that the Goods will comply in all material respects with an Agreement, and AIRWAVE so informs Supplier within 7 days of such inspection or testing, AIRWAVE shall not be deemed to have accepted such Goods, and AIRWAVE shall not be obliged to pay any relevant Charges until the non-compliance is remedied. No such inspection shall diminish or otherwise affect Supplier's obligations.

2. DELIVERY AND ACCEPTANCE

- 2.1 Supplier shall, at its own expense, deliver the Goods during a Working Day, properly packed and secured to the place specified in the PO or such other location as may subsequently be advised in writing by AIRWAVE to Supplier. All Goods shall be delivered by the relevant Completion Dates, and time shall be of the essence in relation to delivery of the Goods.
- 2.2 Supplier shall supply AIRWAVE in good time with any instruction or other information required to enable AIRWAVE to take delivery of the Goods.
- 2.3 AIRWAVE shall accept Goods immediately after Supplier has demonstrated to AIRWAVE's satisfaction that the Goods (i) comply with the PO pursuant to which they are supplied; (ii) comply with the relevant Agreement; and (iii) are in accordance with the Specification, and "Acceptance" shall be construed accordingly for the purposes of this Schedule 1.
- 2.4 AIRWAVE may reject any Goods delivered earlier or later than the relevant Completion Date, unless previously agreed in writing by the Parties provided that AIRWAVE shall use its reasonable endeavours to accommodate deliveries effected prior to the relevant Completion Date.
- 2.5 If the Goods (or any parts of them) are not delivered by the relevant Completion Date, AIRWAVE may terminate in whole or in part the relevant Agreement without cost or liability. Where AIRWAVE exercises this option: (a) Supplier shall refund to AIRWAVE in full any payments made by AIRWAVE to Supplier in respect of such Goods; (b) no further payment will be due from AIRWAVE in respect of such Goods; (c) following receipt of payment in full of all monies due to it in relation to the Goods in respect of which an Agreement has been terminated (whether in whole or in part) AIRWAVE shall make such Goods available for collection by Supplier and Supplier shall collect such Goods at its own expense within 5 Working Days of the payment, and if Supplier fails to collect within this period, AIRWAVE may dispose of such Goods in its absolute discretion without notice or liability to Supplier; (d) title in the Goods will revert to Supplier following receipt by AIRWAVE from Supplier of payment in full of the refund due to AIRWAVE; and (e) risk in the Goods shall revert immediately to Supplier.
- 2.6 Supplier undertakes at its own expense to repair or replace (at the option of AIRWAVE) Goods lost or damaged in transit, and Acceptance will not be deemed to have taken place until replacement or repaired items have been delivered to the satisfaction of AIRWAVE.

3. RISK AND TITLE

Without prejudice to AIRWAVE's other rights under an Agreement: (a) title in the Goods shall pass to AIRWAVE on payment for the relevant Goods, and (b) risk in the Goods shall pass to AIRWAVE on Acceptance save where the Agreement includes installation, in which case risk shall not pass to AIRWAVE until completion of the installation work.

4. WARRANTIES

- 4.1 Supplier shall provide AIRWAVE with the benefit of any Manufacturer's warranties in respect of the Goods and additionally Supplier warrants to AIRWAVE as follows: (a) Supplier holds absolute legal and beneficial title in and to the Goods and has the unfettered right to sell and supply them and to pass good unencumbered title to AIRWAVE, (b) the Goods are manufactured, supplied and installed in accordance with AIRWAVE Policies, new and unused, of satisfactory quality and conform in all respects to their description and with the Specification, (c) the Goods will be free from Defects whether actual or latent and whether in design, material or workmanship (d) the Goods will comply in all material respects with all relevant statutory requirements and standards issued from time to time by the International Organisation for Standards (ISO), ITU-T and any other applicable organisation or recognised standards body, (e) the Documentation provided by Supplier in respect of the Goods are or will be of such a standard as to enable suitably trained personnel of AIRWAVE to understand, operate and maintain the Goods to a level of competence sufficient for AIRWAVE's business purposes and (f) where Supplier modifies the Goods or any part of the Goods for AIRWAVE, such modification will not materially reduce the functionality of the Goods save to the extent that may be agreed by AIRWAVE in writing prior to Supplier carrying out such modification. The Goods shall conform with each Warranty for 12 months from the date of Acceptance (the "Warranty Period").
- 4.2 If any of the Goods are in breach of any Warranty during the Warranty Period, Supplier will (at AIRWAVE's option and without prejudice to its other rights or remedies): (a) repair the Goods promptly at AIRWAVE's premises (and where that is not possible repair the Goods and redeliver to AIRWAVE) or (b) replace the Goods promptly with Goods that conform with the Warranties. This shall be at no cost to AIRWAVE. If Supplier fails to repair or replace any Goods within a reasonable period determined by AIRWAVE, AIRWAVE may either itself or through a third party, repair or replace the Goods and set off the cost of doing so against any sum AIRWAVE owes or will owe to Supplier and recover any further amount outstanding from Supplier as a debt. AIRWAVE's rights and remedies are in addition and without prejudice to its other rights and remedies at law.
- 4.3 Save as expressly provided to the contrary, each of the Warranties is, and shall be construed as, separate and distinct from the other Warranties. Accordingly, a Warranty shall not be limited or restricted by reference to, or inference from, the terms of any other Warranty or any other term of an Agreement.
- 4.4 The Warranties apply equally to any Goods repaired or replaced in which case the Warranty Period shall be the longer of the remainder of the original Warranty Period or 6 months from the date of receipt of the repaired or replaced Goods by AIRWAVE.
- 4.5 AIRWAVE's rights under an Agreement are in addition to the statutory conditions (if any) implied in favour of AIRWAVE by the Sale of Goods Act 1979, Supply of Goods and Services Act 1982, and any successor or equivalent legislation.

SCHEDULE 2 - ADDITIONAL TERMS RELATING TO THE PROVISION OF SERVICES

1 GENERAL

Supplier shall provide the Services during Working Day(s) (unless otherwise agreed with AIRWAVE) at the place specified in the PO or such other location as may subsequently be advised in writing by AIRWAVE to Supplier. All Services shall be delivered by the relevant Completion Dates, and time shall be of the essence. If the Services (or any parts of them) are not provided by the relevant Completion Date, AIRWAVE may terminate in whole or in part the relevant Agreement without cost or liability. Where AIRWAVE exercises this option: (a) Supplier shall refund to AIRWAVE in full all payments made by AIRWAVE to Supplier in respect of any Services; (b) no further payment will be due from AIRWAVE in respect of any Services; and (c) a full refund shall be due to AIRWAVE in respect of any payments already made. Where Supplier is in possession of AIRWAVE's property in pursuance of providing the Services, it shall at its own expense repair or replace (at the option of AIRWAVE) any such property that is lost or damaged while in Supplier's possession to the satisfaction of AIRWAVE.

AIRWAVE shall accept Services immediately after Supplier has demonstrated to AIRWAVE's satisfaction that the Services (i) comply with the PO pursuant to which they are supplied; (ii) comply with the relevant Agreement; and (iii) are in accordance with the Specification, and "Acceptance" shall be construed accordingly for the purposes of this Schedule 2.

2. WARRANTIES

- 4.1 Supplier warrants to AIRWAVE: (a) that it will ensure that Supplier Personnel will use the skill, care and diligence as would be expected from a skilled and experienced supplier engaged in the same type of business as Supplier and will be performed by employees and sub-contractors possessing the appropriate accreditations, skills and experience for all tasks assigned to them; (b) that Supplier Personnel will carry out the Services in such a way as (i) not to cause any material fault or malfunction in the Deliverables (ii) not to cause any material interruption to the business (other than any agreed downtime and unavoidable interruption which is required in order to perform the Services in a proper and efficient manner) of AIRWAVE (iii) to comply in all material respects with AIRWAVE Policies (iv) to work in a co-operative manner with AIRWAVE and ensure the effective performance of the Services; (c) that the Services will conform in all material respects to the relevant Specification and will comply in all material respects at the time the relevant Service is performed with all statutory requirements or regulations or any other standards relating to the Services and their supply that have been issued by any recognised and appropriate standards bodies; and (d) that any Deliverables produced by Supplier in the course of performing Services shall comply with the applicable Warranties set out elsewhere in these AIRWAVEPTS. The Services shall conform with each of the Warranties for 12 months from the date of their Acceptance (the "Warranty Period").
- 4.2 If any of the Services performed are found to be in breach of any Warranty during the Warranty Period, Supplier will (without prejudice to its other rights or remedies) re-perform the Services promptly at AIRWAVE's premises. This shall be at no cost to AIRWAVE. If Supplier fails to re-perform the Services within a reasonable period determined by AIRWAVE, AIRWAVE may either itself or through a third party, re-perform the Services and set off the cost of doing so against any sum AIRWAVE owes or will owe to Supplier and recover any further amount outstanding from Supplier as a debt. AIRWAVE's rights and remedies are in addition and without prejudice to its other rights and remedies at law.
- 4.3 Save as expressly provided to the contrary, each of the Warranties is, and shall be construed as, separate and distinct from the other Warranties. Accordingly, a Warranty shall not be limited or restricted by reference to, or inference from, the terms of any other Warranty or any other term of an Agreement.
- 4.4 The Warranties apply equally to Services re-performed, in which case the Warranty Period shall be the longer of the remainder of the original Warranty Period or 6 months from the date of re-performance.

SCHEDULE 3 – SOFTWARE LICENCE TERMS

1. DELIVERY AND ACCEPTANCE

Supplier shall deliver the Software to AIRWAVE and (where appropriate, if not pre-installed by Supplier or installed by AIRWAVE) install the same at AIRWAVE's Premises in accordance with the relevant PO and the Specification. Supplier shall in accordance with an acceptance plan mutually agreed between the Parties conduct acceptance tests in respect of the Software at AIRWAVE's Premises during a 14 calendar day acceptance period (or such other acceptance period as the Parties may agree in writing), such acceptance period to commence once the Software is operational. AIRWAVE shall accept the Software immediately after Supplier has demonstrated to AIRWAVE's satisfaction that the relevant Software (i) complies with the PO pursuant to which it is supplied; (ii) complies with the relevant Agreement; and (iii) is in accordance with the Specification, and "Acceptance" shall be construed accordingly for the purposes of this Schedule 3. Upon Acceptance, AIRWAVE shall if requested by Supplier sign Supplier's acceptance certificate acknowledging Acceptance of the relevant Software by AIRWAVE.

2. RISK AND TITLE

Risk in and title to the Media shall pass to AIRWAVE on the date of Acceptance. If any part of the Media shall thereafter be lost, destroyed or damaged by AIRWAVE, Supplier shall at the request of AIRWAVE replace the same promptly subject to AIRWAVE paying the reasonable costs associated with such replacement. Supplier shall at all times retain ownership of the Software.

3. LICENCE

Supplier hereby grants to AIRWAVE an irrevocable, non-exclusive, perpetual licence to use, copy, install, maintain, modify, enhance and adapt the Software throughout the world and to allow members of the AIRWAVE Group to do the same. AIRWAVE may also assign its licence to use the Software (or any part thereof) to any third party to which it may outsource the operation of a part of AIRWAVE's operations or business provided such third party enters into a direct undertaking to respect the terms of this Schedule 3 with Supplier. The grant of rights in this paragraph 3 shall also include implementation (in accordance with the reasonable written instructions of AIRWAVE) of new releases, versions and upgrades to the Software.

4. WARRANTIES

- 4.1 Supplier shall provide AIRWAVE with the benefit of any Manufacturer's warranties in respect of the Software (if any) and additionally Supplier warrants to AIRWAVE as follows: (a) Supplier's title to and property in and to the Software is free and unencumbered, and Supplier has the right, power and authority to licence the same to AIRWAVE; (b) the Software conforms in all material respects to their descriptions (if any) and with the Specification; (c) the Software will be free from Defects which materially affect the performance or functionality of the Software; (d) the Software will comply in all material respects with all relevant statutory requirements and any relevant industry standards issued by any applicable organisation or recognised standards body; (e) the Software will be supplied free of any known computer code programming instruction or set of instructions that damages, interferes with, or otherwise adversely affects computer program data files, or hardware, without the consent of the computer user, including self-propagating program instructions (all commonly called "Viruses") and when providing Services, Supplier it will not knowingly introduce any Viruses to any of AIRWAVE's computer systems; (f) any new software releases, versions or upgrades supplied to AIRWAVE under an Agreement will include any data conversion software required to enable AIRWAVE to continue reading and writing data using the Software in the same manner as previous software releases, versions or upgrades; (g) new releases, versions and upgrades shall not cause a material diminution in the functionality or the performance of the Software; (h) neither the performance nor functionality of the Software will be adversely affected by dates, and all relevant years will be recognised as leap years; and (i) the Software is capable of performing its functions for more than one currency and also for the Euro, and will comply with all legal requirements applicable to the Euro.
- 4.2 The Software shall conform to each of the Warranties set out in paragraph 4.1 from Acceptance for the longer of 12 months or the period of any standard warranty as applies to any Software supplied by Supplier ("Warranty Period"). The Warranties in paragraph 4.1 shall not apply to the extent that AIRWAVE makes or causes to be made to the defective Software any modifications in breach of this licence or if Software has been altered, repaired, installed or relocated by any party other than Supplier or Supplier's agents unless such alteration, repair, installation or relocation shall have been performed in accordance with Supplier's standards therefore.
- 4.3 If any Software is in breach of any Warranty during the Warranty Period, Supplier shall, at AIRWAVE's option and at Supplier's own expense: (a) carry out all such alterations or corrections as are necessary to cause the Software or Media to comply fully with this Schedule 3 by repairing or replacing it; or (b) refund to AIRWAVE any and all Charges paid by AIRWAVE for the Software. If Supplier fails to repair or replace the Software within a reasonable period determined by AIRWAVE, AIRWAVE may do so either itself or through a third party and set off the cost of doing so against any sum AIRWAVE owes or will owe to Supplier and recover any further amount outstanding from Supplier as a debt. AIRWAVE's rights and remedies are in addition and without prejudice to its other rights and remedies at law.
- 4.4 Save as expressly provided to the contrary, each of the Warranties is, and shall be construed as, separate and distinct from the other Warranties. Accordingly, a Warranty shall not be limited or restricted by reference to, or inference from, the terms of any other Warranty or any other term of an Agreement.
- 4.5 The Warranties apply equally to Software and Media which have been repaired or replaced, in which case the Warranty Period shall be the longer of the remainder of the original Warranty Period or 6 months from the date of repair or replacement.

5. TRAINING AND MAINTENANCE SERVICES

Supplier shall provide such training in respect of the Software as is necessary to allow AIRWAVE to use it. At AIRWAVE's request, Supplier shall provide such Software maintenance services as AIRWAVE may require and in the event of such a request by AIRWAVE, the parties shall (acting reasonably) negotiate in good faith to agree Charges in respect of the same.



SCHEDULE 4 – ADDITIONAL IPR LICENCE TERMS

1. DELIVERY AND ACCEPTANCE

Supplier shall deliver the Licensed IPR to at AIRWAVE's Premises in accordance with the relevant PO and the Specification. AIRWAVE shall accept the Licensed IPR immediately after Supplier has demonstrated to AIRWAVE's satisfaction that the relevant Licensed IPR (i) complies with the PO pursuant to which it is supplied; (ii) complies with the relevant Agreement; and (iii) is in accordance with the Specification, and "Acceptance" shall be construed accordingly for the purposes of this Schedule 4. Upon Acceptance, AIRWAVE shall if requested by Supplier sign Supplier's acceptance certificate acknowledging Acceptance of the Licensed IPR by AIRWAVE.

2. TITLE

Supplier shall at all times retain ownership of the Licensed IPR.

3. LICENCE

Supplier hereby grants to AIRWAVE an irrevocable, non-exclusive, perpetual licence to use, copy, install, maintain, modify, enhance and adapt the Licensed IPR throughout the world and to allow members of the AIRWAVE Group to do the same. AIRWAVE may also assign its licence to use the Licensed IPR (or any part thereof) to any third party to which it may outsource the operation of a part of AIRWAVE's operations or business provided such third party enters into a direct undertaking to respect the terms of this Schedule 3 with Supplier.

4. WARRANTIES

- 4.1 Supplier warrants to AIRWAVE as follows: (a) Supplier's title to and property in and to the Licensed IPR is free and unencumbered, and Supplier has the right, power and authority to licence the same to AIRWAVE; (b) the Licensed IPR conforms in all material respects to their descriptions (if any) and with the Specification; (c) the Licensed IPR will be free from material Defects; (d) the Licensed IPR will comply in all material respects with all relevant statutory requirements and any relevant industry standards issued by any applicable organisation or recognised standards body.
- 4.2 The Licensed IPR shall conform to each of the Warranties set out in paragraph 4.1 for 12 months from the date of their Acceptance ("Warranty Period").
- 4.3 If any Licensed IPR is in breach of any Warranty during the Warranty Period, Supplier shall, at AIRWAVE's option and at Supplier's own expense: (a) carry out all such alterations or corrections as are necessary to cause the Licensed IPR to comply fully with this Schedule 4 by correcting or replacing it; or (b) refund to AIRWAVE any and all Charges paid by AIRWAVE for the Licensed IPR. If Supplier fails to correct or replace the Licensed IPR within a reasonable period determined by AIRWAVE, AIRWAVE may do so either itself or through a third party and set off the cost of doing so against any sum AIRWAVE owes or will owe to Supplier and recover any further amount outstanding from Supplier as a debt. AIRWAVE's rights and remedies are in addition and without prejudice to its other rights and remedies at law.
- 4.4 Save as expressly provided to the contrary, each of the Warranties is, and shall be construed as, separate and distinct from the other Warranties. Accordingly, a Warranty shall not be limited or restricted by reference to, or inference from, the terms of any other Warranty or any other term of an Agreement.