

1. DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions (**Conditions**), the following terms shall have the following meanings:

Charges means the price of the Products and Services as set out in the Purchase Order;

Commercial Proposal means the proposal and / or quote provided by HRS in advance of receiving the Purchase Order which details the Products, Charges and additional terms offered by HRS including payment frequency;

Contract means the contract agreed between HRS and the Customer for the supply of Products and Services comprising of the Purchase Order and these Conditions and the Framework Agreement (if one exists);

Customer means the Customer specified in the Purchase Order;

Confidential Information means any information that is directly or indirectly disclosed (however conveyed) by one Party to the other Party which would appear to a reasonable person to be confidential and which relates to the business and affairs of that Party including (in the case of HRS) the Products and Services and information relating to such Products and Services, and (in the case of either party) operations, processes, plans or intentions, developments, trade secrets, know how, design rights, market opportunities, personnel, customers and suppliers and all information derived from the above other than information:

- that was in the public domain at the time it was disclosed or becomes available in the public domain without breach of any obligation of confidentiality;
- that is given to the recipient by a third party who is lawfully entitled to disclose it; or
- that was already known or independently generated by the recipient;

Framework Agreement means the framework agreement between HRS and the Customer;

Hardware means the MSite hardware and equipment agreed to be leased to the Customer by HRS. Hardware supplied by the Customer or any other third party is deemed outside the scope of this Contract;

Hire Period means the period of hire of the Products as stated in the Purchase Order which may be extended or shortened from time to time in accordance with clause 3;

HRS means Human Recognition Systems Limited, a company registered in England and Wales with company number 04363275;

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, computer software, database rights, rights to use and protect the confidentiality of Confidential Information including know how and trade secrets, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extension of, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Minimum Term means:

- 26 weeks for a Hire Period of up to 52 weeks;
- 53 weeks for a Hire Period between 53 weeks and 78 weeks;
- 79 weeks for a Hire Period between 79 weeks and 104 weeks; and
- 105 weeks for a hire period greater than 105 weeks.

Monthly Average Spend means the total Charges divided by the Hire Period measured in months;

Normal working hours means 9am to 5pm Monday to Friday (excluding bank holidays);

Parties means HRS and the Customer (and **Party** shall mean either of them as applicable);

Products means the Hardware and Software agreed to be supplied to the Customer by HRS pursuant to the Contract;

Purchase Order means an order provided by the Customer to HRS and accepted by HRS in writing detailing the Products and Services to be provided by HRS and in line with the Commercial Proposal provided by HRS;

Representatives means a Party's employees, officers, sub-contractors and representatives;

SaaS Terms means the terms which apply to the provision of the Software which are available on request;

Services means the installation, support and maintenance services agreed to be supplied to the Customer by HRS pursuant to the Contract;

Software means the MSite software agreed to be licensed to the Customer by HRS in accordance with the SaaS Terms;

Site means the location to which the Products will be delivered as specified by the Customer in the Purchase Order.

1.2 In these Conditions:

- 1.2.1 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.2 the headings are for ease of reference only and shall not affect construction or interpretation;
- 1.2.3 any phrase introduced by the terms **including**, **include** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 1.2.4 reference to in **writing** and **written** shall include by email.

2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the hire of Products by the Customer from HRS and the provision of Services by HRS to the Customer.
- 2.2 Any quotation or proposal document provided by HRS shall not constitute an offer and is only valid for a period of 30 days, or such other period as may be specified therein.
- 2.3 No Purchase Order shall be deemed to be accepted by HRS until it has been accepted in writing by HRS.
- 2.4 The Contract shall be formed once HRS has confirmed acceptance of a Purchase Order in writing and once formed, the Contract shall be binding on the Customer.
- 2.5 These Conditions apply to and form part of the Contract to the exclusion of all other terms and conditions including any terms and conditions which the Customer seeks to impose or incorporate, or which are howsoever implied including by trade, customer practice or course of dealing. In the event of any conflict or inconsistency between these any documents forming part of the Contract the Framework Agreement (if one exists) shall prevail.
- 2.6 All descriptions or illustrations contained in HRS's brochures or other documents are issued or published for the sole purpose of giving an approximate idea of the Products and Services described in them. They shall not form part of the Contract and HRS shall not be held liable for any inaccuracy in any such document or for the suitability of the Products and Services for the Customer.

3. HIRE PERIOD

- 3.1 The Hire Period shall commence on the earlier of the date of delivery of the Products or the date on which the Products were scheduled to be delivered where such delivery is delayed or refused due to any act or omission of the Customer as set out in the Purchase Order and, unless terminated earlier in accordance with the Contract (including clause 13 of these Conditions) or otherwise by operation of law, shall continue in force for an initial fixed term which shall be as stated in the Purchase Order (**Initial Term**) but for no less than the Minimum Term.
- 3.2 The Customer shall have the right to extend the Hire Period beyond the Initial Term or, if already extended, the extended period (Extended Term) by a minimum of 4 weeks by providing no less than 4 weeks' notice prior to the date of expiry of the Initial or Extended Term.
- 3.3 The Customer must provide a minimum of 4 weeks' notice for the collection of any Product. Failure to provide the required notice will result in an initial charge of 4 weeks' hire and thereafter blocks of 4 week hire charges until the required notice has been received.

4. PROVISION OF SERVICES

- 4.1 HRS shall carry out its obligations under the Contract using all the reasonable skill and care expected of a supplier of products and services similar to the Products and Services.
- 4.2 Except where otherwise specified in a Purchase Order HRS shall deliver the Products to the Site during normal working hours and in accordance with any delivery restrictions made known to HRS by the Customer on the Purchase Order. When installation outside normal working hours is required, agreement on any additional, reasonable charges are to be agreed in advance by both parties. The Supplier shall use reasonable endeavours to meet any performance dates specified in a Purchase Order, subject to site readiness, but time for performance by the Supplier shall not be of the essence of the Contract.
- 4.3 If the Customer wishes to delay or rearrange the date for delivery of the Products or commencement of the Services, it must make such request

- in writing and all such requests shall be subject to the written approval HRS.
- 4.4 In any event, if delivery of the Products or commencement of the Services is delayed or rearranged by the Customer with less than 72 hours' notice prior to the due delivery date or otherwise prevented or delayed by any act or omission of the Customer, its agents, sub-contractors, consultants or employees then, without prejudice to any other right or remedy it may have, the Customer shall be liable for a minimum administration charge of £1,000 and any other costs incurred including but not limited to haulage costs.
- 5. CHARGES AND PAYMENT TERMS**
- 5.1 The Charges for the Products and Services shall be as set out in the Purchase Order and in line with the Commercial Proposal provided by HRS. Unless stated otherwise in the Purchase Order, the Charges are exclusive of value added tax chargeable from time to time (VAT) and any other duties, costs of carriage and insurance which shall be paid by the Customer when it pays for the Products and Services or at such other time as may be indicated in the Purchase Order or agreed by the Parties in writing or in the case of VAT, subject to receipt of a valid VAT invoice from HRS.
- 5.2 HRS shall invoice the Customer for the total Charges indicated in the Purchase Order and Commercial Proposal on delivery of the Products and Services.
- 5.3 The Customer shall pay the invoice submitted by HRS in accordance with clause 5.2 by BACS to HRS within 30 days of the date of the invoice.
- 5.4 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 5.5 If the Customer fails to make any payment due to HRS under the Contract by the due date for payment, then, without limiting HRS's other rights and remedies:
- 5.5.1 the Customer shall pay interest on the overdue amount at the rate of 5% per annum above the bank of England base rate from time to time which shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement; and/or
- 5.5.2 HRS may suspend the supply of Services or further deliveries of Products under the Contract or any other contract between the Parties until such time as payment of the overdue amount together with any interest payable in accordance with clause 5.5.1 is received in full.
- 5.6 In the event of dispute with regard to an invoice, the undisputed portion shall be paid by the Customer. Upon resolution of the disputed portion, any amounts owed to HRS shall be paid with interest at the rate set out in clause 5.5.1 above accruing from the date such amounts were originally due.
- 5.7 Cancelled orders prior to delivery will be subject to a 20% fee of the agreed contract value.
- 5.8 Cancelled orders post-delivery will be subject to the Minimum Term.
- 5.9 Were a failed delivery or collection is applicable the Supplier may invoice the receiving party reasonable cost for the re collection or re delivery.
- 6. CUSTOMER RESPONSIBILITIES**
- 6.1 The Customer shall provide to HRS all reasonable information, including all necessary contact information, cooperation, facilities and access to enable HRS to perform its obligations under the Contract. In the event information changes during the period of the Contract, the Customer shall inform HRS of such changes.
- 6.2 The Customer is responsible for providing adequate and unrestricted access to the Site for delivery, unloading and activation of the Products and such access as is required for the ongoing performance of the Services by HRS.
- 6.3 The Customer shall provide suitable foundations for the Products at the Site and shall provide no less than 7 days' prior notice of the position for the Products at the Site. HRS shall not be obliged to inspect or approve or to take any responsibility for the foundations or position of the Products.
- 6.4 Unless otherwise stated in the Purchase Order, the Customer is solely responsible for linking the Products to such power, telecommunication lines and other facilities and utilities as the Customer may require or as may otherwise be necessary for the proper operation of the Products and Services.
- 6.5 The Customer shall inspect per the contents of HRS Engineers Electronic Job Sheet the condition and suitability of the Products upon delivery but such acceptance of delivery does not relieve HRS of its obligations under the Contract.
- 6.6 The customer shall not make any modification to the Product or its packaging, nor alter or remove or tamper with any trademarks, trade names, markings or names affixed to or used in relation to the Product.
- 6.7 The Customer shall ensure that SIM cards provided are used only to transmit data used by the Product. If SIM cards are transferred to other equipment or used outside of the terms of the Contract any costs associated will be invoiced to the Customer.
- 7. INSURANCE**
- 7.1 The Customer shall throughout the Hire Period insure the Products against loss or damage including by fire, theft and other risks usually covered by comprehensive insurance and against all risks and liability imposed upon the Customer under the Contract, such insurance to be for the full replacement value of the Product.
- 7.2 The Customer shall on demand provide HRS with a copy of its current insurance policy and a receipt for the last premium paid and all such insurances shall be placed with a reputable insurance company and if HRS so requests in writing, HRS's interest shall be noted on the policy.
- 7.3 If the Customer fails to comply with its obligations under clauses 7.1 and 7.2, HRS shall be entitled to obtain suitable insurance for the Products and invoice the Customer for the costs of such insurance.
- 8. RISK AND TITLE**
- 8.1 As between HRS and the Customer, title to the Products shall remain with HRS at all times throughout the Hire Period and such other period in which the Products remain in the Customer's custody, control or possession.
- 8.2 Nothing in these Conditions shall be deemed to transfer title in the Software to the Customer which shall be licenced to the Customer in accordance with the SaaS Terms. The risk of loss of or damage to the Products shall pass to the Customer on delivery and from that date, the Customer shall, and ensure its Representatives shall:
- 8.2.1 ensure that the Products shall not be or become affixed to any land or building;
- 8.2.2 not remove, deface, or obscure any identifying mark relating to it;
- 8.2.3 not cause or permit the Products to be removed from the Site without HRS's prior written consent;
- 8.2.4 not remove anything from or modify or attempt to modify the Products, including signage, without HRS's prior written agreement;
- 8.2.5 take reasonable measures to take care of the Products and protect them from theft and/or damage and only use them for their proper purpose in a safe and correct manner;
- 8.2.6 not do or permit to be done anything which may prejudice or jeopardise the title, rights and/or interest of HRS in the Products;
- 8.2.7 for the purposes of collection of the Products upon termination of the Hire Period, grant access to HRS to the Site and make the Products available to HRS in the same condition and meeting the same specification as when delivered (fair wear and tear excepted, reference "Wear and Tear Document- MSite Biometric Unit" and "Wear and Tear Document – MSite Unit");
- 8.2.8 ensure the Products shall be capable of being removed without damage or injury to any land, building or person; and
- 8.2.9 not at any time, sub-let, part with possession of, re-hire, sell, assign, or otherwise transfer the Products nor create any mortgage, charge, lien or other security over the Products.
- 8.3 In line with credit terms, The Customer shall immediately notify HRS in writing upon the occurrence of any loss of or damage to the Products during the Hire Period.
- 9. INSPECTION, SERVICING AND REPAIRS**
- 9.1 The Customer shall at all reasonable times permit HRS and its Representatives access to the Site and to the Products to inspect, test, adjust, repair, alter or replace the Products, such work to be carried out during normal working hours.
- 9.2 If at any time during the Hire Period, the Products or any part thereof is in need of adjustment, repair or replacement, then the Customer shall notify HRS of the issue via the helpdesk and HRS shall at its discretion:
- 9.2.1 carry out the necessary adjustment or repair at the Site; or
- 9.2.2 replace the Products or part thereof.
- 9.3 Notwithstanding clause 9.2 the Contract shall continue unamended except that if the Products have been replaced, HRS may at its option

- from the date of delivery of the replacement Products, apply HRS's hire rates current at the date of substitution in place of those set out in the Purchase Order in respect of the substituted Products.
- 9.4 If the cause of the adjustment, repair or replacement of the Products arises in whole or in part from any cause other than solely fair wear and tear then (except to the extent the Parties have agreed otherwise in writing) the Customer shall (in addition to its liability under 9.3) be liable for all costs of inspection, loading, unloading and transport in connection with the carrying out of the adjustment, repairs, or replacement, together with the costs of the adjustment, repair or replacement of the Products (as applicable).
- 9.5 If the cause of the adjustment, repair or replacement is solely attributable to fair wear and tear then HRS shall be liable for all such costs as are mentioned in clause 9.4.
- 9.6 If at the end of the Hire Period, the Products are returned without being cleaned and/or emptied, including the removal of Customer materials, HRS shall arrange for them to be cleaned by a specialist contractor, the cost of which shall be recharged to the Customer and payable on demand.
- 10. INTELLECTUAL PROPERTY RIGHTS**
- 10.1 All Intellectual Property Rights in any proposal document, specifications, drawings, and literature relating to the Products and Services and/or arising out of or in connection with the Products and Services (other than Intellectual Property Rights in any materials or data provided by the Customer) shall be owned by HRS.
- 10.2 HRS grants to the Customer a non-transferable, non-exclusive royalty-free licence in accordance with the SaaS Terms to use the Software during the Hire Period for the purpose of using the Products and Services in its business.
- 10.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.
- 10.4 Upon written confirmation by the Customer, the Customer grants to HRS a non-transferable, non-exclusive licence to host, copy, transmit, display and use data and materials provided by the Customer, for the purpose of providing the Products and Services.
- 11. DATA PROTECTION**
- 11.1 In this clause 11, **Data Controller**, **Data Processor**, **Personal Data** and **Data Subject** shall each have the meaning given to them in the EU General Data Protection Regulation (GDPR).
- 11.2 The Customer and HRS acknowledge that in relation to any Personal Data being processed under the Contract, the Customer is the Data Controller and HRS is the Data Processor.
- 11.3 HRS shall process the Personal Data only in accordance with the Customer's instructions from time to time and shall not process the Personal Data for any purposes other than those expressly authorised by the Customer.
- 11.4 HRS shall, having regard to the state of technological development and the cost of implementing any measures, take appropriate and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage.
- 11.5 The Customer acknowledges that HRS is reliant on the Customer for direction as to the extent to which HRS is entitled to use and process the Personal Data. HRS will not be liable for any claim brought by a Data Subject arising from any act or omission by HRS, to the extent that such act or omission results directly from the Customer's instructions.
- 12. LIMITATION OF LIABILITY**
- 12.1 Nothing in the Contract shall limit or exclude either Party's liability for death or personal injury caused by its negligence or the negligence of its Representatives, or for fraud or fraudulent misrepresentation or any other liability which cannot be limited or excluded by applicable law.
- 12.2 Subject to clause 12.1:
- 12.2.1 HRS shall not be liable to the Customer whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for: loss of profit, loss of contracts or business, loss of anticipated savings, data or information, or any indirect or consequential loss or damages; and
- 12.2.2 The Supplier's total liability to the Customer and the Customer's total liability to the Supplier, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, howsoever arising under or in connection with this Agreement shall be limited to 6 (six) times the Monthly Average Spend; and
- 12.2.3 The Customer shall not be liable to HRS, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for loss of profit or any indirect or consequential loss.
- 12.3 Each Party acknowledges that it has not relied on, and subject to clause 12.1, will have no remedies (whether in equity, contract, tort (including negligence), for breach of statutory duty, for misrepresentation (including negligent misstatement), or in any other way) for any warranty, assurance, guarantee or representation which is not expressly set out in the Contract.
- 13. TERMINATION**
- 13.1 Without affecting any other right or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:
- 13.1.1 the other Party commits a material breach of any term of the Contract and such breach is irremediable or if such breach is remediable, fails to remedy that breach within a period of 30 days after being notified in writing to do so; or
- 13.1.2 the other Party makes any voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation or has a receiver, administrative receiver or administrator appointed or otherwise suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- For the purposes of this clause 13.1, a breach by the Customer of clause 10.3 or clause 15 shall be deemed to be an irremediable material breach.
- 13.2 Without affecting any other right or remedy available to it, HRS may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract within 30 days of the due date for payment.
- 13.3 On termination or expiry of the Contract:
- 13.3.1 the Hire Period shall automatically terminate; and
- 13.3.2 the Customer shall immediately pay to HRS all of HRS's outstanding unpaid invoices and, in respect of Services supplied but for which no invoice has yet been submitted, HRS shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- 13.3.3 the Customer shall, on demand, make available for collection by HRS the Products and HRS may, without prejudice to its other rights or remedies and without any further notice or other act on the part of HRS, enter the Site and take possession of the Products and more immediately remove Services and withhold functionality of Software. HRS shall not be liable for any damage caused by the removal of the Products other than as a result of HRS's negligence. The Customer shall be solely responsible for the safe keeping of the Products until such time as they are collected by HRS and shall remain subject to all applicable obligations and restrictions in respect thereof under the Contract and will cease use of them.
- 13.4 Termination of the Contract shall not prejudice or affect any rights, remedies or liabilities of the Parties that have accrued up to the date of termination including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination and such termination shall not affect the coming into or continuance in force of any provisions of the Contract which are expressly or by reasonable interpretation intended to come into or continue in force on or after termination.
- 14. FORCE MAJEURE**
- 14.1 HRS shall not be in breach of the Contract, nor liable for any failure to perform or any delay in the performance of any of its obligations under the Contract if and to the extent that such failure or delay arises from or is attributable to acts, events, omissions or accidents beyond its reasonable control (including acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, pandemic, lock-outs, strikes or other labour dispute (except where relating only to HRS's workforce), restraints or delays affecting carriers or suppliers) (each a **Force Majeure Event**).
- 14.2 If a Force Majeure Event prevents HRS from providing any of the Products and Services for more than 60 days in aggregate, the Customer

shall have the right to terminate the Contract immediately by giving notice to HRS.

15. CONFIDENTIAL INFORMATION

- 15.1 Each Party undertakes that it shall not at any time during the term of the Contract, and for a period of 5 (five) years thereafter, disclose to any person any Confidential Information of the other Party, except as permitted by clause 15.2.
- 15.2 Each Party may disclose the other Party's Confidential Information:
- 15.2.1 to its Representatives or advisers who need to know such Confidential Information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with the Contract. Each Party shall ensure that its Representatives or advisers to whom it discloses the other Party's Confidential Information comply with this clause 15; and
- 15.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3 No Party shall use the other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

15. GENERAL

- 16.1 Each of the Parties agrees to comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption (including the Bribery Act 2010). The Customer shall not engage in any activity, practice or conduct which constitutes an offence under the Bribery Act 2010 or which would do if such activity practice or conduct had been carried out in the United Kingdom.
- 16.2 Neither Party shall assign or otherwise transfer all, or any of its rights, obligations or liabilities under or in connection with the Contract unless it is to an assignee to whom such Party has assigned the Framework Agreement in accordance with its terms.
- 16.3 Any notice given to a Party under or in connection with the Contract shall be in writing, addressed to that Party at its registered office or its principal place of business or such other address as that Party may have specified to the other Party in writing in accordance with this clause. For the purposes of this clause, 'in writing' shall not include email.
- 16.4 No variation of the Contract or any Purchase Order shall be valid unless it is in writing and agreed by both Parties.
- 16.5 No failure or delay by either Party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy shall only be effective if it is in writing and signed by the party giving the waiver.
- 16.6 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 16.7 The Contract constitutes the entire agreement and understanding between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 16.8 Nothing in the Contract shall be construed as creating a partnership, a joint venture, or the relationship of principal and agent between the Parties and neither Party shall have authority to act as agent for, or to bind the other Party in any way.
- 16.9 No person who is not a Party to the Contract shall have any rights to enforce any of its terms.
- 16.10 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England.
- 16.11 Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.