

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;

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 (if one exists);

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

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, data base 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;

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;

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 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 supply of Products and 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 inconsistency between 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. PROVISION OF SERVICES

3.1 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.

3.2 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 in 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.

3.3 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.

3.4 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.

3.5 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 associated costs including but not limited to haulage costs.

4. CHARGES AND PAYMENT TERMS

4.1 The Charges for the Products and Services shall be as set out in the Purchase Order. 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.

4.2 HRS shall invoice the Customer the total Charges indicated in the Purchase Order and Commercial Proposal on delivery of the Products and Services.

4.3 The Customer shall pay each invoice submitted by HRS in accordance with clause 4.3 by BACS to HRS within 30 days of the date of the invoice.

4.4 If the Purchase Order includes any commitments upon the Customer to order any minimum volume or value of Products and Services from HRS or make any minimum amount of payment to HRS during any specified period, the Customer shall comply with such commitments and HRS may invoice the Customer at the end of the period to which the minimum volume/value relates for any shortfall in the amounts received by HRS from the Customer in the event that the Customer fails to comply with any such commitments.

PURCHASE TERMS & CONDITIONS

- 4.5 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).
- 4.6 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:
 - 4.6.1 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
 - 4.6.2 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 4.6.1 is received in full.
- 4.7 In the event of dispute with regard to an invoice, the undisputed portion shall be paid by the Customer in accordance with clause 4.4. Upon resolution of the disputed portion, any amounts owed to HRS shall be paid with interest at the rate set out in clause 4.6.1 above accruing from the date such amounts were originally due.
- 4.8 Cancelled orders prior to delivery will be subject to a 20% fee of the agreed contract value.
- 4.9 Were a failed delivery or collection is applicable the Supplier may invoice the receiving party reasonable cost for the re collection or re delivery

5. CUSTOMER RESPONSIBILITIES

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 Unless otherwise stated in the Purchase Order, the Customer is solely responsible for providing power, telecommunication lines, and other facilities and utilities as the Customer may require or as may otherwise be necessary for the activation and proper operation of the Products and Services.
- 5.5 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.
- 5.6 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.

E. RISK AND TITLE

- 6.1 Title to the Products shall remain with HRS until payment of the Charges relating to the Products has been received in full by HRS from the Customer when title to the Products will pass to the Customer.
- 6.2 Nothing in the Contract 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.
- 6.3 The risk of loss of or damage to the Products shall pass to the Customer on delivery and from that date until such time as the title in the Products passes to the Customer in accordance with clause 6.1, the Customer shall, and shall ensure that its Representatives shall:
 - 6.3.1 ensure that the Products shall not be or become affixed to any land or building;
 - 6.3.2 not remove, deface, or obscure any identifying mark relating to it;
 - 6.3.3 not cause or permit the Products to be removed from the Site without HRS's prior written consent;
 - 6.3.4 not remove anything from or modify or attempt to modify the Products, including signage, without HRS's prior written agreement;
 - 6.3.5 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;

- 6.3.6 not do or permit to be done anything which may prejudice or jeopardise the title, rights and/or interest of HRS in the Products;
- 6.3.7 ensure that the Products shall be capable of being removed without damage or injury to any land, building or person; and
- 6.3.8 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.

7. INSPECTION, SERVICING AND REPAIRS

- 7.1 HRS warrants that on delivery of the Products and for a period of 12 months following delivery (**Warranty Period**) the Products shall be free from material defects in design, material and workmanship.
- 7.2 If at any time during the Warranty Period and/or any period during which the Services are being provided by HRS to the Customer and the Customer has fully paid all Charges relating to the Services, 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:
 - 7.2.1 carry out the necessary adjustment or repair at the Site; or
 - 7.2.2 replace the Products or part thereof.
- 7.3 If in HRS's reasonable opinion, the cause of the adjustment, repair or replacement of the Products arises in whole or in part from any cause other than a material defect or fair wear and tear then (except to the extent the Parties have agreed otherwise in writing) the Customer shall 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).
- 7.4 If in HRS's reasonable opinion, the cause of the adjustment, repair or replacement is solely attributable to a material defect or fair wear and tear in the Product then HRS shall be liable for all such costs as are mentioned in clause 7.3.
- 7.5 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 or replace the Products, such work to be carried out during normal working hours.
- 7.6 HRS shall not be liable for the Products failure to comply with the warranty given in clause 7.1 if:
 - 7.6.1 the defect arises because of improper storage, accident, misuse, abuse, wilful damage or negligence; or
 - 7.6.2 the Customer alters or repairs or attempts to modify the Product; or
 - 7.6.3 the Customer has not paid all sums due to HRS in full by the due date.
- 7.7 Except as provided in this clause 7, HRS shall have no liability to the Customer in respect of the Product's failure to comply with the warranty set out in clause 7.1.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 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.
- 8.2 HRS grants to the Customer a non-transferable, non-exclusive, royalty-free licence in accordance with the SaaS Terms to use the Software for the purpose of using the Products and Services in its business.
- 8.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 8.2.
- 8.4 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.
- 8.5 The Customer grants to HRS a non-exclusive royalty free licence to use, display and reproduce the trade marks, service marks and logos of the Customer for the purpose of marketing HRS's products and services. Usage is to be agreed in writing by both parties prior to use.

9. DATA PROTECTION

- 9.1 In this clause 9, **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) .
- 9.2 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.
- 9.3 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.

- 9.4 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.
- 9.5 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.
- 10. LIMITATION OF LIABILITY**
- 10.1 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.
- 10.2 Subject to clause 10.1:
- 10.2.1 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, loss of or damage to goodwill, or any indirect or consequential loss or damages; and
- 10.2.2 HRS's total liability to the Customer and the Customer's total liability to HRS in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, shall be limited to 6 (six) times the Monthly Average Spend; and
- 10.2.3 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.
- 10.3 Each Party acknowledges that it has not relied on, and subject to clause 10.1 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.
- 11. TERMINATION**
- 11.1 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:
- 11.1.1 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
- 11.1.2 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 11, a breach by the Customer of clause 8 or clause 13 shall be deemed to be an irremediable material breach.
- 11.2 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.
- 11.3 On termination of the Contract:
- 11.3.1 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
- 11.3.2 if termination is due to the Customer's non-payment of invoices relating to the Products, 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 relevant Products (and more immediately remove Services and withhold Software functionality). 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 them.
- 11.3.3 Customer data shall continue to be accessible online to the Customer for 12 months from the end of the period during which Software is provided. At the expiry of the 12 month period, Customer data shall be taken offline and shall only be made available to the Customer upon request. HRS reserves the right to charge an administration fee for responding to such request.
- 11.4 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 (including all indemnity provisions in these Conditions).
- 12. FORCE MAJEURE**
- 12.1 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**).
- 12.2 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.
- 13. CONFIDENTIAL INFORMATION**
- 13.1 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 13.2.
- 13.2 Each Party may disclose the other Party's Confidential Information:
- 13.2.1 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 13; and
- 13.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 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.
- 14. GENERAL**
- 14.1 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.
- 14.2 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.
- 14.3 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.
- 14.4 No variation of the Contract or any Purchase Order shall be valid unless it is in writing and agreed by both Parties.
- 14.5 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.
- 14.6 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.

- 14.7 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.
- 14.8 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.
- 14.9 No person who is not a Party to the Contract shall have any rights to enforce any of its terms.
- 14.10 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.
- 14.11 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.