

1. DEFINITIONS

Any defined terms not set out below shall have the meaning set out in Our Master Terms.

"Acceptance Criteria" means the acceptance criteria for any Deliverables as described in the Order Form;

"Acceptance Period" means, unless otherwise set out in the Order Form, a period of 10 days immediately following the submission of the Deliverable by Us to You for acceptance;

"Deliverable" means any deliverable, documentation, software, know-how or other output to be provided to You in connection with Services as set out in the Order Form;

"Delivery Plan" means the timetable set out in the Order Form for the provision of the Services and delivery of any Deliverables;

"Professional Services Agreement" means this Professional Services Agreement attached as a Schedule to the Order Form;

"Services" means the services set out in the Order Form;

"Site" means the sites, premises or location(s) identified in the Order Form where We will perform the Services;

"Specification" means the functional and/or technical requirements specification (as applicable) for a Deliverable as set out in the relevant Order Form.

2. SCOPE OF SERVICES

2.1 We shall:

- (A) provide the Services at Our premises unless another Site is specified on the Order Form in which case the Services will be provided at the Site described in the Order Form; and
- (B) take reasonable steps to ensure that any of Our personnel performing the Services at Your Site will comply with any of Your reasonable security, health and safety or confidentiality

requirements that are notified to Us in advance in writing.

3. YOUR OBLIGATIONS

3.1 You will take all reasonable steps to ensure the health and safety of Our personnel carrying out the Services while they are at Your Site.

3.2 You acknowledge that the provision of the Services by Us shall be dependent upon You, at all times during the entire Services engagement and in a timely manner:

- (A) providing Our personnel access to Your Site(s);
- (B) providing Us with access to or use of:
 - (i) any information, specifications and/or instructions with sufficient detail, accuracy and completeness; and/or
 - (ii) any equipment, systems, software and/or other technical services,

as We may reasonably require in order to deliver the Services;

- (C) ensuring that We have access to and full co-operation of:
 - (i) Your project manager; and
 - (ii) Your technical and managerial personnel of and any applicable third parties,

with the necessary skill, experience, knowledge and authority as We may reasonably require for the performance of the Services;

- (D) ensuring that where We need to access, use and/or modify any of Your equipment, systems, software, other technical services, information, data and/or materials as part of or in connection with the Services, that You either own or have all necessary rights, written consents and/ or permissions in place prior to requiring Us to

access, use and/or make any such modifications; and

- (E) performing any additional obligations or dependencies as specified in the Order Form.

4. DELAY OR FAILURE

4.1 The provision of the Services is dependent upon You at all times and in a timely manner performing the obligations set out in clause 33.1 (Your Obligations) and any additional obligations or dependencies specified in the relevant Order Form and the assumptions specified in the relevant Order Form being accurate.

4.2 Where We are prevented from performing Our obligations under the Agreement as a result of any failure or delay by You to perform Your obligations or dependencies under the relevant Order Form or where Our costs of providing the Services increase as a result of an assumption being inaccurate then, without prejudice to Our other rights or remedies, We shall:

- (A) not be liable for any failure to comply with any Delivery Plan or any other obligation under the Agreement; and
- (B) submit a new Order Form for Your execution, which shall set out the necessary changes to the Agreement (including any changes to the Fees and/or Delivery Plan), as a result of such delay, failure or inaccuracy in the assumptions.

4.3 You shall not unreasonably withhold or delay its agreement and/or execution under paragraph 4.2 (Delay or Failure).

5. DELIVERY AND ACCEPTANCE

5.1 Where the Order Form specifies that there are Acceptance Criteria for any Deliverables, the following terms apply:

- (A) We will use reasonable endeavours to complete the Deliverables and submit them for acceptance testing or approval (as applicable) by You in accordance with the Delivery Plan;

(B) upon receipt of the Deliverable(s), You shall promptly test or review (as applicable) the Deliverable(s) to determine whether they conform substantially to the Acceptance Criteria. Acceptance of the Deliverables will occur on the earlier of the date:

- (i) on which You indicate in writing to Us that the Deliverables substantially conform to the Acceptance Criteria or are otherwise accepted;
- (ii) on completion of the Acceptance Period for each Deliverable if, within that period, You fail to notify Us of any substantial non-conformances to the Acceptance Criteria in accordance with clause 5.2 (Delivery and Acceptance);
- (iii) on which We can reasonably demonstrate that the Deliverables substantially conform to the Acceptance Criteria; or
- (iv) after the Deliverables have first been used by You in a production environment.

5.2 If You, acting reasonably, determine that the Deliverables do not substantially conform to the Acceptance Criteria, You shall provide Us with a complete and accurate list together with supporting evidence of all such non-conformances in a format reasonably specified by Us from time to time ("**Non-Conformance Test Report**").

5.3 You shall notify Us of its acceptance or otherwise provide Us with its Non-Conformance Test Report in each case by email. The subject heading in the email will be marked as "Confirmation of Acceptance" or "Non-Conformance Test Report: Issues" respectively, to Our Project Manager at the email addresses notified by Us from time to time.

5.4 If the Deliverables are not accepted pursuant to Clause 5.1(B) (Delivery and

Acceptance), We shall use commercially reasonable efforts to correct such non-conformities and may modify the Deliverables and re-submit them to You for acceptance and the provisions of paragraphs 5.1(B) (Delivery and Acceptance), 5.2 (Delivery and Acceptance) and 5.3 (Delivery and Acceptance) shall apply accordingly to such re-submission(s).

5.5 If a Deliverable fails to meet its Acceptance Criteria after its second re-submission, You may, as Your sole and exclusive remedy:

- (A) again reject the Deliverable and return it to Us for further correction and re-submission in accordance with the process described in clause 5.4 (Delivery and Acceptance); or
- (B) terminate the relevant part of the Order Form immediately upon written notice and recover all Services fees paid under the relevant part of the Order Form for such deficient Deliverable.

5.6 If no Acceptance Criteria are specified in the Order Form, then You shall be deemed to have accepted the Deliverables upon delivery.

6. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that where the Deliverable includes configuration or modifications to any standard software of Ours, permission to use the Deliverable is granted on the same basis as that which applies to the relevant Software as set out in the Agreement.

ANNEX

TEMPLATE CHANGE CONTROL NOTE

CCN No:	[INSERT]
Agreement to be varied:	[INSERT DETAILS INCLUDE DATE OF AGREEMENT]
Effective date of change:	[INSERT EFFECTIVE DATE]
Initiated by:	Change requested by [We OR Client]
Date of request:	[INSERT REQUEST DATE]
Reason for change:	
[INSERT REASON]	
Description and impact of the change (including to delivery, performance, the scope of any Specification and the Delivery Plan):	
[INSERT DESCRIPTION AND IMPACT]	
Required amendments to wording of Order Form:	
[INSERT AMENDMENTS]	
Adjustment to Fees resulting from change:	
[INSERT FEE ADJUSTMENTS]	
Additional one-off charges and means of determining these (for example, fixed price basis):	
[INSERT CHARGES]	
Supporting or additional information:	
[INSERT ANY ADDITIONAL INFORMATION]	
SIGNED BY Exonar Ltd	SIGNED BY [INSERT FULL LEGAL NAME OF CLIENT]
Signature:	Signature:
Name:	Name:
Position:	Position:
Date:	Date: