

1. Interpretation

1.1 In these Conditions:

"Client" means the person named on the attached Proposal or whom PROiT has agreed to provide the Specified Service in accordance with these Conditions

"Contract" means the contract for the provision of the Specified Services comprising the Proposal and these Conditions

"PROiT" means PRO I.T Limited (registered in England and Wales under number 2632691)

"Document" includes in addition to a document in writing any map plan graph drawing or photograph any film negative tape software or other device embodying visual images and any disc tape or other device embodying any other data

"Input Material" means any Documents or other materials and any data or other information provided by the Client relating to the Specified Service

"Output Material" means any Documents or other materials and any data or other information provided by PROiT relating to the Specified Service

"Proposal" means the sheets to which these Conditions are appended

"Specified Service" means the service to be provided by PROiT for the Client and as set out in the Proposal

"Software" means software developed by PROiT or developed by a third party

"PROiT's Standard Charges" means the charges shown in PRO I.T's brochure Proposal or other format relating to the Specified Service from time to time

2. Supply of the Specified Service

2.1 PROiT shall provide the Specified Service to the Client subject to these Conditions. Any changes or additions to the Specified Service or these Conditions must be agreed in writing by PROiT and the Client

2.2 The Client shall at its own expense supply PROiT with all necessary Documents or other materials and all necessary data or other information relating to the Specified Service within sufficient time to enable PROiT to provide the Specified Service in accordance with the Contract. The Client shall ensure the accuracy of all Input Material

2.3 The Client shall at its own expense retain duplicate copies of all Input Material and insure against its accidental loss or damage. PROiT shall have no liability for any such loss or damage however caused. All Output Materials shall be at the sole risk of the Client from the time of delivery to or to the order of the Client

2.4 The Specified Service shall be provided in accordance with the Proposal and otherwise in accordance with PROiT's current website brochure or other published literature relating to the Specified Service from time to time subject to these Conditions

2.5 PROiT may correct any typographical other errors or omissions in any website brochure promotional literature quotation or other document relating to the provision of the Specified Service without any liability to the Client

2.6 PROiT may at any time without notifying the Client make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements or which do not materially affect the nature or quality of the Specified Service

3. Charges

- 3.1 Subject to any special terms agreed the Client shall pay PRO I.T's Standard Charges and any additional sums which are agreed between PROiT and the Client for the provision of the Specified Service or which in PROiT's sole discretion are required as a result of the Client's instructions or lack of instructions the inaccuracy of any Input Material or any other cease attributable to the Client
- 3.2 PROiT shall be entitled to vary PRO I.T's Standard Charges From time to time by giving not less than three months' written notice to the Client
- 3.3 All charges quoted to the Client for the provision of the Specified Service are exclusive of any Value Added Tax for which the Client shall be additionally liable at the applicable rate from time to time
- 3.4 PROiT shall be entitled to invoice the Client following the end of each month or at an agreed milestone in which the Specified Service is provided or at other times agreed with the Client
- 3.5 PROiT's Standard Charges and any additional sums payable shall be paid by the Client (together with any applicable Value Added Tax and without any set-off, or other deduction) within 30 days of the date of PROiT's invoice and in the event of any non-payment of any invoice PROiT shall be entitled to cease and suspend the provision of the Specified Service until such time as the outstanding invoice shall have been paid this will be without prejudice to any other provision herein and shall not constitute a breach of contract by PROiT
- 3.6 If payment is not made on the due date PROiT shall be entitled without limiting any other rights it may have to charge interest on the outstanding amount (both before and after any judgment) at the rate of 8% per annum from the due date until the outstanding amount is paid in full

4. Rights in Input Material and Output Material

- 4.1 The property and any copyright or other intellectual property rights in:
 - 4.1.1 any Input Material shall belong to the Client
 - 4.1.2 any Output Material shall unless otherwise agreed in writing between the Client and PROiT belong to PROiT subject only to the right of the Client to use the Output Material for the purposes of utilising the Specified Service
- 4.2 Any Input Material or other information provided by the Client which is so

designated by the Client and any Output Material shall be kept confidential by PROiT and all Output Material or other information provided by PROiT which is so designated by PROiT shall be kept confidential by the Client but the foregoing shall not apply to any Documents or other materials data or other information which are public knowledge at the time when they are so Provided by either party and shall cease to apply if at any future time they become public knowledge through no fault of the other party

- 4.3 PROiT warrants that any Output Material and its use by the Client for it the purposes of utilising the Specified Service will not infringe the copyright or other rights of any third party and PROiT shall indemnify the Client against any loss damages costs expenses or other claims arising from any such infringement provided that:
 - i) the Client makes no statement prejudicial to PROiT
 - ii) such infringement is not caused by or contributed to by acts of the Client
 - iii) PROiT is promptly notified in writing of the details of the claim
 - iv) the Client gives PROiT reasonable assistance in connection therewith and
 - v) PROiT shall have the opportunity of sole conduct and control of its settlement to compromise
- 4.4 It is in the contemplation of both parties that any unauthorised disclosure use or copying of the Input Material and the Output Material and associated documentation may cause PROiT or the Client serious financial loss. Accordingly, both parties shall treat as strictly confidential the said material and not pass any of it to any other person outside the respective parties' employment. Each party shall arrange proper and secure storage of the said material and shall protect the Input Material and the Output Material as if it were its own property.

5. Warranties and Liability

- 5.1 PROiT warrants to the Client that the Specified Service will be provided using reasonable care and skill and as far as reasonably possible in accordance with the Proposal and at the intervals and within the times referred to in the Proposal. Where PROiT supplies any goods (including Output Material) supplied by a third party PROiT does not give any warranty guarantee or other term as to their quality fitness for purpose or otherwise but shall where possible assign to the Client the benefit of any warranty guarantee or indemnity given by the person supplying the goods to PROiT

- 5.2 PROiT shall have no liability to the Client for any loss damage costs expenses or other claims for compensation arising from any Input Material or instructions supplied by the Client which are incomplete incorrect inaccurate illegible out of sequence or in the wrong form or arising from the late arrival or non-arrival or any other fault of the Client
- 5.3 Except in respect of death or personal injury caused by PROiT's negligence or as expressly provided in these Conditions PROiT shall not be liable to the Client by reason of any representation (unless fraudulent) or any implied warranty condition or other term or any duty at common law or under the express terms of the Contract with the Client for any loss of whatsoever nature including without limitation loss of payment loss of contracts loss of operation time loss of computer data loss of use of any equipment or process or any other indirect special or consequential loss damage costs expenses or any other claims (whether caused by the negligence of PROiT its servants or agents or otherwise) which arise out of or in connection with the provision of the Specified Service or its use by the Client and the entire liability of PROiT under or in connection with the provision of the Specified Service shall not exceed the amount of PROiT's charges for the Provision of the Specified Service except as expressly provided in these Conditions
- 5.4 PROiT does not warrant that if Software is provided as part of the Specified Service that it is error-free or will operate without interruption. The Software is not designed, intended or licensed for use in hazardous environments requiring fail-safe controls, including without limitation, the design, construction, maintenance or operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, and life support or weapons systems. PROiT specifically disclaims any express or implied warranty of fitness for such purposes
- Neither PROiT nor its suppliers shall be liable to you or any third party for any indirect, special, incidental, punitive or consequential damages (including, but not limited to, damages for the inability to use equipment or access data, loss of business, loss of profits, business interruption or the like), arising out of the use of, or inability to use, the Software and based on any theory of liability including breach of contract, breach of warranty, tort (including negligence), product liability or otherwise, even if PROiT or its representatives have been advised of the possibility of such damages.
- 5.5 PROiT shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of PROiT's obligations in relation to the Specified Service if the delay or failure was due to any cause beyond PROiT's reasonable control

6. Termination

- 6.1 If the provision of the Specified Service shall be on a rolling basis then either party shall be entitled to terminate the Contract at any time by giving not less than one months written notice to the other
- 6.2 Either party may (without limiting any other remedy) at any time terminate the provisions of the Specified Service by giving written notice to the other if the other commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 30 days offer being required by written notice to do so or if the other goes into liquidation or (in the case of an individual or firm) becomes bankrupt makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed

7. General

- 7.1 These Conditions together with the Proposal constitute the entire agreement between the parties supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise are excluded to the fullest extent permitted by law
- 7.2 Any notice required or permitted to be given by either part to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice
- 7.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision
- 7.4 If any provision or these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected
- 7.5 PROiT may assign sub-contract or delegate all or any of its rights or obligations under this Contract without the Client's prior consent
- 7.6 In the event of any conflict between the Conditions and the Proposal the latter shall prevail
- 7.7 English law shall apply to the Contract and the parties agree to submit to the non-exclusive jurisdiction of the English Courts