

GENERAL TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 In the Contract the following definitions apply:

"Switchshop" means Switchshop Limited (company number 03771032) with its registered office at Switchshop House, Enterprise Park Kimpton, Hitchin, Hertfordshire SG4 8HP;

"Customer" means the person who purchases a Deliverable from Switchshop and whose details are set out in the Order (and where the context requires includes that person prior to the conclusion of that purchase);

"Acceptance" means confirmation in any form by a Customer of its acceptance of a Quotation;

"Bribery Laws" means the Bribery Act 2010 and all other applicable UK Law in relation to bribery or corruption;

"Business Day" means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;

"Confidential Information" means any commercial, financial, or technical information relating to either party (including the Deliverables, plans, know-how, or trade secrets) which is obviously confidential or has been identified as such, or which is developed by a party in connection with the Contract;

"Contract" means an agreement between Switchshop and the Customer for the supply and purchase of Deliverables incorporating these General Terms, the Order and any applicable Deliverable Schedule (and their respective schedules, appendices and annexes (if any)), with each Order resulting in a separate Contract between the parties;

"Control" means the beneficial ownership of more than 50% of the issued share capital of an entity or the legal power to direct or cause the direction of the management of an entity;

"Controller" shall have the meaning given in Data Protection Laws;

"Data Protection Laws" means any Law which relates to the protection of individuals with regards to the processing of Personal Data to which a Party is subject, including the Privacy and Electronic Communications (EC Directive) Regulations 2003, the General Data Protection Regulation (EU) 2016/679 as it has

effect in UK law, ("**UK GDPR**"), the General Data Protection Regulation (EU) 2016/679 ("**EU GDPR**") to the extent applicable to the relevant Services, and the Data Protection Act 2018;

"Deliverable Schedule" means a Goods or Service specific schedule corresponding to Goods or Services ordered by the Customer, as set out in an Order;

"Deliverables" means Goods or Services or both as the case may be;

"Force Majeure" means an event or sequence of events (including any Law in respect of that event or sequence of events) beyond any party's reasonable control (after exercise of reasonable care to put in place robust business continuity and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire or explosion, flood, lightning, or exceptionally severe weather, earthquake, pandemic, epidemic, or other natural disaster; war, military operations, riot or civil unrest; national or local emergency; anything done by government or other competent authority; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract (but not including where the provision of those telecommunications services or materials is the subject of the relevant Contract); acts or omissions of other communications suppliers or network operators; strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving Switchshop's or its suppliers' workforce; but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;

"General Terms " means Switchshop's terms and conditions of sale and supply set out in this document;

"Goods" means goods or other physical material set out in an Order to be supplied by Switchshop to the Customer;

"Intellectual Property Rights" means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names

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| | and all similar rights and, in each case: | | |
| | (a) whether registered or not; | | 1.2.2 a reference to a 'party' means either Switchshop or the Customer and includes that party's personal representatives, successors and permitted assigns; |
| | (b) including any applications to protect or register such rights; | | 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns; |
| | (c) including all renewals and extensions of such rights or applications; | | 1.2.4 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established; |
| | (d) whether vested, contingent or future; | | 1.2.5 words in the singular include the plural and vice versa; |
| | (e) to which the relevant party is or may be entitled; and | | 1.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words; |
| | (f) in whichever part of the world existing; | | 1.2.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form; |
| "Law" | means any law, statute, statutory instrument, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule, or binding guidance issued pursuant to any of them, in each case as updated and amended from time to time; | | 1.2.8 without prejudice to the provisions of clause 14, a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time; and |
| "Location" | means the address for delivery of Goods or Services as set out in the Order or as otherwise agreed between the parties from time to time; | | 1.2.9 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction. |
| "Order" | means a Quotation and an Acceptance in relation to a Deliverable; | | |
| "Price" | has the meaning given in clause 3.1; | | |
| "Quotation" | means a quotation provided to a Customer by Switchshop; | 2. APPLICATION OF THESE GENERAL TERMS | |
| "Services" | means services to be supplied by Switchshop to the Customer as set out in an Order and as further described in the relevant Deliverable Schedule; | 2.1 | Subject to clause 2.2, these General Terms (along with the Order and any applicable Deliverable Schedule) apply to and form part of the Contract between Switchshop and the Customer. They supersede any previously issued terms and conditions of purchase or supply. |
| "Switchshop Personnel" | all employees, directors, officers, staff, and other workers of Switchshop and those of any Switchshop Provider who are engaged in the performance of the Services from time to time; | 2.2 | Notwithstanding clause 2.1, no terms or conditions endorsed on, delivered with, or contained in the Customer's Acceptance, specification or other document shall form part of the Contract except to the extent that Switchshop otherwise agrees in writing. |
| "Switchshop Provider" | any agent, consultant, sub-contractor, or other third party engaged by Switchshop in the provision of the Services; and | 2.3 | Where any Acceptance purports to contain any terms and conditions that conflict with the Quotation, these General Terms or any applicable Deliverable Schedule, Switchshop's processing of such Acceptance shall constitute a renewed counter-offer on the basis of the Quotation, these General Terms and any applicable Deliverable Schedule. By accepting delivery of the relevant Deliverables or making payment in respect of any related invoice issued by Switchshop, the Customer accepts the terms of the Contract as set out in the Quotation, these General Terms and any applicable Deliverable Schedule without application of those conflicting terms and conditions. |
| "VAT" | means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Deliverables. | 2.4 | Without prejudice to clause 33, no variation of this Contract shall be binding unless expressly agreed in writing on behalf of the parties. |
| 1.2 | In the Contract, unless the context otherwise requires: | 2.5 | A Quotation may be withdrawn or amended by Switchshop at any time before acceptance by the Customer. A |
| 1.2.1 | any clause, schedule or other headings are for convenience only and shall have no effect on the interpretation of the Contract; | | |

Quotation shall lapse unless accepted by the Customer before the expiry of 30 days after the date of the Quotation.

2.6 Marketing and other promotional material relating to the Deliverables are illustrative only and do not form part of the Contract.

3. PRICE

3.1 The price for each Deliverable shall be as set out in the Quotation or, in default of such provision, shall be as otherwise agreed between the parties in writing ("**Price**").

3.2 Unless otherwise stated in the Order, the Prices are exclusive of packaging, delivery and insurance (which shall be charged at Switchshop's standard rates) and VAT.

3.3 The Customer shall pay any applicable VAT to Switchshop on receipt of a valid VAT invoice.

3.4 Notwithstanding any other provision of the Contract Switchshop may, by giving notice to the Customer at any time, increase the price of any Deliverable to reflect any increase in the cost of the Deliverable that is due to:

3.4.1 any factor beyond Switchshop's control (including foreign exchange fluctuations, increases in taxes and duties, compliance with statutory provisions from time to time in force, increases in labour, materials and other manufacturing costs, and increases in prices charged to Switchshop by its suppliers);

3.4.2 any request by the Customer to change the delivery date(s), the Location, quantities, capacity, form, content, style, description or types of Goods and / or Services ordered; or

3.4.3 any delay caused by any instructions of the Customer or failure of the Customer to give Switchshop adequate or accurate information or instructions.

4. PAYMENT

4.1 Switchshop shall invoice the Customer for the Deliverables at any time after delivery or performance (as the case may be) of the Deliverables. Where there has been delivery or performance (as the case may be) of the Deliverables in instalments pursuant to clause 5.5, Switchshop may invoice the Customer a pro-rated amount following such part delivery or performance for the part of the delivery or performance already made.

4.2 The Customer shall pay all invoices:

4.2.1 in full, without deduction or set-off, in cleared funds, within 30 days of the date of each invoice; and

4.2.2 to the bank account nominated by Switchshop.

4.3 Time of payment is of the essence. Where sums due under a Contract are not paid in full by the due date:

4.3.1 Switchshop may, without limiting its other rights, charge interest on such sums at 15% a year;

4.3.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment; and

4.3.3 any costs in connection with the collection of overdue accounts will be payable, and fully indemnified by the Customer. The costs will include charges levied by third parties.

5. DELIVERY AND PERFORMANCE

5.1 Goods shall be delivered by Switchshop to the Location on the date(s) agreed between the parties from time to time.

5.2 Goods shall be deemed delivered by Switchshop:

5.2.1 where goods are being dispatched directly to the Customer in relation to an Order, on arrival of the Goods at the Location; or

5.2.2 where the Customer has placed an Order for Goods and those Goods are to be stored by Switchshop or a third party on behalf of the Customer before deployment or delivery to a site, on confirmation to the Customer that the relevant Goods have been segregated, are being stored in the name of the Customer and are available for deployment to a Customer Site.

5.3 Services shall be performed by Switchshop on or by the date(s) agreed between the parties from time to time. Services shall be deemed delivered by Switchshop only on completion of the performance of the Services in accordance with the Contract.

5.4 If the Customer fails to accept any Goods on presentation by Switchshop then, without prejudice to any other right or remedy available to Switchshop, Switchshop may store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage.

5.5 Switchshop may deliver or perform Deliverables in instalments. Any delay in performance or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5.6 Time is not of the essence in relation to the performance or delivery of Deliverables. Switchshop shall use its reasonable endeavours to meet estimated dates for delivery and performance, but any such dates are approximate only.

5.7 Switchshop shall not be liable for any delay in or failure of performance caused by:

5.7.1 the Customer's failure to ensure the timely provision of any cooperation or information reasonably requested by Switchshop; or

5.7.2 Force Majeure; or

5.7.3 the Customer's failure to comply with the obligations set out in any applicable Deliverable Schedule.

5.8 Switchshop may use Switchshop Providers in order to provide the Deliverables. The use of any Switchshop Provider by Switchshop shall not affect either party's rights or obligations under the Contract.

6. RISK AND TITLE

6.1 Risk in Goods shall pass to the Customer on delivery.

6.2 Title to Goods shall pass to the Customer once Switchshop has received payment in full and cleared funds for the Goods.

6.3 Until title to Goods has passed to the Customer, the Customer shall:

6.3.1 hold the Goods as bailee for Switchshop;

6.3.2 take all reasonable care of the Goods and keep them in the condition in which they were delivered;

6.3.3 inform Switchshop immediately if it becomes subject to any of the events or circumstances set out in clauses 17.1.1 to 17.1.13; and

6.3.4 on reasonable notice permit Switchshop to inspect the Goods during the Customer's normal business hours and provide Switchshop with such information concerning the Goods as Switchshop may request from time to time.

- 6.4 If, at any time before title to Goods has passed to the Customer, the Customer informs Switchshop, or Switchshop reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 17.1.1 to 17.1.13, Switchshop may:
- 6.4.1 require the Customer at the Customer's expense to re-deliver the Goods to Switchshop; and
- 6.4.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.
7. **WARRANTY**
- 7.1 Subject to clause 7.2, Switchshop warrants that, for a period of three months from delivery (the "**Warranty Period**"), the Deliverables shall:
- 7.1.1 conform in all material respects to their description and to the specification as set out in a Deliverable Schedule;
- 7.1.2 be free from material defects in design, material and workmanship;
- 7.1.3 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- 7.1.4 if Services, be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13;
- 7.1.5 if media on which the results of the Services are supplied, be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 7.2 In respect of second hand or refurbished Goods the warranty period described in clause 7.1 shall instead be 28 days or such other period as may be agreed by Switchshop in writing in respect of the relevant Goods.
- 7.3 Switchshop shall, at its option, correct, repair, remedy, re-perform or refund any Deliverables that do not comply with clause 7.1, provided that:
- 7.3.1 the Customer serves a written notice on Switchshop not later than five Business Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;
- 7.3.2 such notice specifies that some or all of the Deliverables do not comply with clause 7.1 and identifying in sufficient detail the nature and extent of the defects; and
- 7.3.3 the Customer gives Switchshop a reasonable opportunity to examine the claim of the defective Deliverables.
- 7.4 The provisions of these General Terms shall apply to any Deliverables that are corrected, repaired, remedied or re-performed with effect from delivery or performance of those Deliverables.
- 7.5 Except as set out in this clause 7:
- 7.5.1 Switchshop gives no warranty and makes no representations in relation to the Deliverables; and
- 7.5.2 Switchshop shall have no liability for the failure of the Deliverables to comply with the warranty in clause 7.1, and all warranties and conditions (including the conditions implied by ss. 12–16 of the Supply of Goods and Services Act 1982 and ss. 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise, are excluded to the extent permitted.
- 7.6 The Customer agrees that, regardless of whether or not a sample of the Goods has been shown to and/or inspected by the Customer, the sale shall not constitute a sale by sample.
- 7.7 Except as expressly set out in the Contract, all conditions, warranties, terms, undertakings and obligations implied by statute, common law, custom, trade usage or otherwise are excluded to the maximum extent permitted by law.
8. **ANTI-BRIBERY**
- 8.1 For the purposes of this clause 8 the expressions "**adequate procedure**" and "**associated with**" shall be construed in accordance with the Bribery Act 2010 and Law or guidance published under it.
- 8.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
- 8.2.1 all of that party's personnel;
- 8.2.2 all others associated with that party; and
- 8.2.3 all of that party's subcontractors; involved in performing the Contract so comply.
- 8.3 Without limitation to clause 8.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 8.4 Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 8.
9. **ANTI-SLAVERY**
- 9.1 The Customer undertakes, warrants and represents that:
- 9.1.1 neither the Customer nor any of its officers, employees, agents or subcontractors has:
- (a) committed an offence under the Modern Slavery Act 2015 (an "**MSA Offence**");
- (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 9.1.2 it shall comply with the Modern Slavery Act 2015;
- 9.1.3 it shall notify Switchshop immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of Customer's obligations under clause 9. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer's obligations.
- 9.2 Any breach of clause 9 by the Customer shall be deemed a material breach of the Contract and shall entitle Switchshop to terminate the Contract with immediate effect.
10. **LIMITATION OF LIABILITY**
- 10.1 Unless an alternative position is set out in a Deliverable Schedule, in which case that alternative position shall apply, the extent of the parties' liability under or in

- connection with the Contract (regardless of whether such liability arises in tort, contract, or in any other way, and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 10.
- 10.2 Subject to clause 10.5, Switchshop's total liability for each Contract shall not exceed the sum of:
- 10.2.1 in the first year of the Contract: 150% of the Price paid and payable or expected to be paid in the first 12 months of that Contract; and
- 10.2.2 in all other years of the Contract: 150% of the Price paid by the Customer under the relevant Contract in the 12 months preceding the occurrence of the first incident giving rise to a claim under the Contract.
- 10.3 Subject to clause 10.5, Switchshop shall not be liable for consequential, indirect or special losses.
- 10.4 Subject to clause 10.5, Switchshop shall not be liable for any of the following (whether direct or consequential, indirect or special):
- 10.4.1 loss of business, profit, or revenue;
- 10.4.2 loss or corruption of data;
- 10.4.3 loss of use;
- 10.4.4 loss of production;
- 10.4.5 loss of contract;
- 10.4.6 loss of opportunity;
- 10.4.7 loss of savings, discount or rebate (whether actual or anticipated);
- 10.4.8 harm to reputation or loss of goodwill;
- 10.4.9 wasted expense;
- 10.4.10 additional costs of procuring and implementing replacements for, or alternatives to, Services not provided in accordance with this Contract (including consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials); or
- 10.4.11 any liability of the Customer under any Third Party Terms.
- 10.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
- 10.5.1 death or personal injury caused by negligence;
- 10.5.2 fraud or fraudulent misrepresentation;
- 10.5.3 any other losses which cannot be excluded or limited by applicable law; or
- 10.5.4 any losses caused by wilful misconduct.
11. **INTELLECTUAL PROPERTY**
- 11.1 Switchshop shall indemnify the Customer from and against any losses, damages, liability, costs and expenses (including reasonable professional fees) incurred by it as a result of any action, demand or claim that use of the Deliverables infringes the Intellectual Property Rights of any third party ("**IPR Claim**"), provided that Switchshop shall have no such liability if the Customer:
- 11.1.1 does not notify Switchshop in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;
- 11.1.2 makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of Switchshop;
- 11.1.3 does not let Switchshop at its request and own expense have the conduct of or settle all negotiations and litigation arising from the IPR Claim at its sole discretion;
- 11.1.4 does not take all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the IPR Claim;
- 11.1.5 does not, at Switchshop's request, provide Switchshop with all reasonable assistance in relation to the IPR Claim (at the Customer's expense) including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of the Customer.
- 11.2 If any IPR Claim is made or is reasonably likely to be made, Switchshop may at its option:
- 11.2.1 procure for the Customer the right to continue receiving the benefit of the relevant Deliverables; or
- 11.2.2 modify or replace the infringing part of the Deliverables so as to avoid the infringement or alleged infringement, provided the Deliverables remain in material conformance to their specification set out in a Deliverable Schedule.
- 11.3 Switchshop's obligations under clause 11.1 shall not apply to Deliverables modified or used by the Customer other than in accordance with the Contract or the instructions of Switchshop or any relevant manufacturer or service provider. The Customer shall indemnify Switchshop against all losses, damages, liability, costs and expenses (including reasonable legal fees) incurred by Switchshop in connection with any claim arising from such modification or use.
12. **THIRD PARTY SOFTWARE AND SERVICES**
- 12.1 As part of the Deliverables, Switchshop may provide to the Customer access to or use of third party software or services (for example, support or maintenance services provided directly by the manufacturer) which are governed by separate terms issued by the supplier of such software or service ("**Third Party Terms**"). The Customer acknowledges that Third Party Terms may not be brought to its attention by Switchshop, and instead may be available during registration to or as part of such third party service or software.
- 12.2 Where the Customer makes use of any third party services or software, the Customer:
- 12.2.1 shall contact Switchshop in the event that it has any queries in respect of the applicability of Third Party Terms;
- 12.2.2 acknowledges that its access to or use of such software or services shall be subject to the Third Party Terms;
- 12.2.3 shall comply with the Third Party Terms and any updates from time to time; and
- 12.2.4 where it is not directly a party to the relevant Third Party Terms, agrees that it shall be bound by and shall comply with any applicable Third Party Terms as if it were the party that is user of the software or services to which such Third Party Terms relate and, where applicable, Switchshop is the provider.
- 12.3 In the event of a conflict between this Contract and any applicable Third Party Terms, the Third Party Terms shall

prevail in respect of the Customer's use of the third party's software or services.

13. **CONFIDENTIALITY AND ANNOUNCEMENTS**

13.1 The parties shall keep confidential all Confidential Information of the other party and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:

13.1.1 any information which was in the public domain at the date of the Contract;

13.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;

13.1.3 any information which is independently developed by a party without using information supplied by the other party; or

13.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract,

except that the provisions of clauses 13.1.1 to 13.1.3 shall not apply to information to which clause 13.4 relates.

13.2 This clause shall remain in force for a period of five years from the date of the Contract and, if longer, three years after termination of the Contract.

13.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

13.4 To the extent any Confidential Information is Personal Data such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with any provisions of clause 14.

14. **PROCESSING OF PERSONAL DATA**

14.1 For the purpose of this clause 14, "**Data Controller**", "**Data Processor**", "**Process**", "**Processed**", "**Processing**", "**Data Processor**" and "**Special Categories of Personal Data**" shall have the meanings given to them in the Data Protection Laws.

14.2 The parties each acknowledge and agree that they may need to Process Personal Data relating to each party's representatives (in their respective capacities as independent Data Controllers) in order to (as appropriate):

14.2.1 administer and provide the Deliverables;

14.2.2 request and receive the Deliverables;

14.2.3 compile, dispatch and manage the payment of invoices relating to the Deliverables;

14.2.4 manage the Contract and resolve any disputes relating to it;

14.2.5 respond and/or raise general queries relating to the Deliverables.

14.3 Each party shall Process such Personal Data relating to each party's representatives for the purposes set out in clause 14.2 in accordance with their respective privacy policies (which, in the case of Switchshop is available on its website at www.switchshop.co.uk/policies). The parties acknowledge that they may be required to share Personal Data with their affiliates, group companies and other relevant parties (including suppliers and sub-contractors), within or outside of the EEA, in order to carry out the activities listed in clause 14.1, and in doing so each party will ensure that the sharing and use of this Personal Data complies with applicable Data Protection Laws.

14.4 Where and to the extent that Switchshop may Process Personal Data (other than Personal Data referred to in clause 14.2) for and on behalf of the Customer as part of

the Services, Switchshop shall be the Processor and the Customer shall be the Controller.

14.5 In respect of Processing referred to in clause 14.4 Switchshop shall:

14.5.1 comply with the obligations imposed upon a Processor under the Data Protection Laws;

14.5.2 co-operate with the Customer and take such action as are reasonably required to enable the Customer to comply with its obligations under the Data Protection Laws;

14.5.3 not perform its obligations under this Contract in such a way as to cause the Customer to breach any of its obligations under the Data Protection Laws;

14.5.4 Process the Personal Data only on documented instructions from the Customer, including with regard to transfers to a third country or an international organisation, unless required to do so by Union or Member State law to which Switchshop is subject (in such case Switchshop shall inform the Customer of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest);

14.5.5 immediately inform the Customer if, in its opinion, an instruction under clause 14.5.4 infringes Data Protection Laws;

14.5.6 ensure that persons authorised to Process the Personal Data have committed themselves to contractual confidentiality obligations or are under an appropriate statutory or common law obligation of confidentiality;

14.5.7 takes all measures required pursuant to GDPR or EU GDPR Article 32 (as applicable);

14.5.8 only engage another Processor in the Processing of the Personal Data if it has first notified the Customer of the identity of that other Processor and if equivalent data protection obligations as those set out in this clause 14.5 are included in the contract between Switchshop and the other Processor

14.5.9 remain fully liable to the Customer for the performance of any other Processor engaged by Switchshop pursuant to clause 14.5.8 where that other Processor fails to fulfil its data protection obligations;

14.5.10 taking into account the nature of the processing, assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the data subject's rights laid down in GDPR or EU GDPR Chapter III (as applicable);

14.5.11 assist the controller in ensuring compliance with the obligations pursuant to GDPR or EU GDPR Articles 32 to 36 taking into account the nature of processing and the information available to Switchshop;

14.5.12 at the choice of the Customer, delete or return all the Personal Data to the Customer after the end of the provision of services relating to Processing, and delete existing copies unless applicable Law requires retention of it;

14.5.13 make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in GDPR or EU GDPR

Article 28 (as applicable) and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer provided that the requirement to allow for a contribute to any such audit is conditional on: (a) the Customer having first given Switchshop 30 days' written notice of its intention to conduct an audit; (b) any third party auditor signing a non-disclosure agreement on terms acceptable to Switchshop acting reasonably; (c) the audit being conducted during Switchshop's normal business hours and so as to minimise disruption to the business of Switchshop; and (d) the audit observing any restrictions on access necessary to preserve the confidentiality of third parties;

- 14.5.14 not transfer Personal Data outside the UK or EEA without the express approval of the Customer subject to such further reasonable conditions or requirements of the Customer; and
- 14.5.15 notify the Customer of any breach of this clause 14.5 promptly and no later than twenty-four hours after Switchshop became aware of it.

15. FORCE MAJEURE

15.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:

- 15.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and
- 15.1.2 uses best endeavours to minimise the effects of that event.

15.2 Subject to clause 15.3, if, due to Force Majeure, a party:

- 15.2.1 is or shall be unable to perform a material obligation; or
- 15.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days;

the other party may, within 30 days, terminate the Contract on immediate notice.

15.3 The Customer may not cancel a Contract with Switchshop as a result of a delay in the delivery of Goods due to supply chain constraints unless Switchshop has notified the Customer in writing that Switchshop is able to cancel the corresponding order with its supplier.

16. SUSPENSION

16.1 Switchshop may suspend all or any part of any Service (or part of a Service) without liability to the Customer if:

- 16.1.1 the Customer commits a material breach of this Contract and fails to remedy the breach within a reasonable time of being asked to do so;
- 16.1.2 the Customer fails to pay any sum due under this Contract within 14 days of the due date;
- 16.1.3 Switchshop reasonably believes that the Services have, are or will be used in breach of the Contract;
- 16.1.4 the Customer does not co-operate with Switchshop's investigation of any suspected breach of the Contract;
- 16.1.5 Switchshop reasonably believes that the Customer has permitted the Services to be accessed or manipulated by a third party without its consent;
- 16.1.6 unless otherwise specified in a Deliverable Schedule, Switchshop reasonably believes that

Customer applications, databases or operating systems hosted on the Services have been hacked or compromised, except where such hack or compromise is reasonably attributable to Switchshop's failure to perform its obligations under the Contract;

- 16.1.7 Switchshop reasonably believes that suspension of the Services is necessary to protect Switchshop's System or Switchshop's other customers;
- 16.1.8 any fee or other amount due under the Contract is overdue or is at risk of non-payment in the opinion of Switchshop;
- 16.1.9 Switchshop is required to do so by any Switchshop Provider; or
- 16.1.10 Switchshop is required to do so by law or a regulatory or government body.

16.2 Switchshop will give the Customer advance notice of at least twelve (12) Business Hours of a suspension under this clause unless Switchshop determines in its reasonable commercial judgment that a suspension on shorter notice is necessary to protect Switchshop or its other customers from imminent and significant operational, legal, or security risk, or non-payment of its Fees.

16.3 If Switchshop suspends any Services pursuant to clauses 16.1.1, 16.1.2, 16.1.3, 16.1.4 or 16.1.10, then Switchshop may continue to charge the Customer the fee for the Services during the period of suspension, and may charge the Customer a reasonable reinstatement fee upon reinstatement of the Services. If Switchshop suspends any Services pursuant to clause 16.1.6, then the Customer must address the underlying vulnerability prior to Switchshop placing the Services back in service.

17. TERMINATION

17.1 Either party may terminate the Contract (in whole or in part) at any time by giving notice in writing to the other party if the other party:

- 17.1.1 commits a material breach of the Contract and such breach is not remediable;
- 17.1.2 commits a material breach of the Contract which is not remedied within 60 days of receiving written notice of such breach;
- 17.1.3 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 17.1.4 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if Switchshop reasonably believes that to be the case;
- 17.1.5 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 17.1.6 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- 17.1.7 has a resolution passed for its winding up;
- 17.1.8 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 17.1.9 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
- 17.1.10 has a freezing order made against it;

- 17.1.11 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;
- 17.1.12 is subject to any events or circumstances analogous to those in clauses 17.1.3 to 17.1.11 in any jurisdiction;
- 17.1.13 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 17.1.3 to 17.1.12 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 17.2 Switchshop may terminate the Contract at any time by giving notice in writing to the Customer where it has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 7 days after Switchshop has given notification that the payment is overdue.
- 17.3 Switchshop may terminate the Contract at any time by giving not less than four weeks' notice in writing to the Customer if the Customer undergoes a change of Control or if it is realistically anticipated that it will undergo a change of Control within two months.
- 17.4 The right to terminate the Contract pursuant to clause 17.3 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to the Contract.
- 17.5 If a party becomes aware that any event has occurred, or circumstances exist, which may entitle the other to terminate the Contract under this clause 17, it shall immediately notify the other in writing.
- 17.6 Termination or expiry of the Contract shall not affect a party's accrued rights and liabilities at any time up to the date of termination.
18. **NON-SOLICITATION**
The Customer agrees that during the period of the Contract and for a period of 12 months after its termination or expiry, save for where such action is a result of a general public recruitment process, it will not entice or seek to employ or engage directly or indirectly or make or seek to make any offer of employment or engagement to any Switchshop Personnel.
19. **NOTICES**
- 19.1 Any notice or other communication given by a party under a Contract shall: (a) be in writing and in English; (b) be signed by, or on behalf of, the party giving it (except for notices sent by email); and (c) be sent to the relevant party at the address set out in the Contract
- 19.2 Notices may be given, and are deemed received:
- 19.2.1 by hand: on receipt of a signature at the time of delivery;
- 19.2.2 by first class post: at 9.00 am on the second Business Day after posting;
- 19.2.3 by email on transmission.
- 19.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 19.1 and shall be effective:
- 19.3.1 on the date specified in the notice as being the date of such change; or
- 19.3.2 if no date is so specified, 10 Business Days after the notice is deemed to be received.
- 19.4 All references to time are to the local time at the place of deemed receipt.
- 19.5 This clause does not apply to notices given in legal proceedings or arbitration.
20. **CUMULATIVE REMEDIES**
The rights and remedies provided in the Contract for Switchshop only are cumulative and not exclusive of any rights and remedies provided by law.
21. **FURTHER ASSURANCE**
The Customer shall at the request of Switchshop, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.
22. **ENTIRE AGREEMENT**
- 22.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 22.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- 22.3 Nothing in this Contract purports to limit or exclude any liability for fraud.
23. **VARIATION**
No variation of the Contract shall be valid or effective unless it refers to the Contract and is agreed in writing by, or on behalf of, Switchshop.
24. **ASSIGNMENT, ETC.**
- 24.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without Switchshop's prior written consent.
- 24.2 Switchshop may assign, novate, subcontract, encumber or otherwise transfer its rights or obligations under the Contract at any time by giving notice to the Customer.
25. **SET OFF**
- 25.1 Switchshop shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which Switchshop has with the Customer.
- 25.2 The Customer shall pay all sums that it owes to Switchshop under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
26. **NO PARTNERSHIP OR AGENCY**
The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

atwww.switchshop.co.uk/terms. The Customer's continued use of a Deliverable following receipt of such notice shall constitute acceptance of each relevant Contract as updated.

27. SEVERANCE

- 27.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 27.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

28. WAIVER

- 28.1 No failure, delay or omission by Switchshop in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 28.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by Switchshop shall prevent any future exercise of it or the exercise of any other right, power or remedy by Switchshop.
- 28.3 A waiver of any term, provision, condition or breach of the Contract by Switchshop shall only be effective if given in writing and signed by Switchshop, and then only in the instance and for the purpose for which it is given.

29. CONFLICTS WITHIN THE CONTRACT

If there is a conflict between the terms contained in these General Terms and the terms of an Order, a Deliverable Schedule, or the schedules, appendices or annexes to the Contract, the following order of precedence shall apply:

- 29.1.1 an Order Form or a Scope of Works (as defined in the relevant Deliverable Schedule), if applicable;
- 29.1.2 the Quotation;
- 29.1.3 the terms of a Deliverable Schedule as it applies to the applicable Deliverable;
- 29.1.4 these General Terms; followed by
- 29.1.5 the Acceptance.

30. THIRD PARTY RIGHTS

- 30.1 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

31. GOVERNING LAW

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

32. JURISDICTION

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

33. UPDATES

Switchshop may update these General Terms or any Deliverable Schedule from time to time on providing reasonable notice to the Customer, and for these purposes reasonable notice includes by updating the General Terms and/or applicable Deliverable Schedule on its website