

COOLSPIRiT™

COOLSPIRiT
Terms and Conditions
for the Supply of Goods
and / or Services

COOLSPIRiT™

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The Customer's attention is particularly drawn to the provisions of clause 9.

1. Interpretation

1.1 Definitions. In these Conditions, the following definitions apply:

"Business Day"	means a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.
"Commencement Date"	has the meaning set out in clause 2.2.
"Conditions"	means these terms and conditions as amended from time to time in accordance with clause 14.8.
"Contract"	means the contract between COOLSPIRiT and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
"COOLSPIRiT"	means COOLSPIRiT Ltd whose registered office is at 24 The Bridge Business Centre, Beresford Way, Chesterfield, S41 9FG.
"Customer"	means the person or firm who purchases the Goods and/or Services from COOLSPIRiT.
"Delivery Location"	has the meaning set out in clause 3.1.
"Force Majeure Event"	has the meaning given to it in clause 14.1.1.
"Goods"	means the goods (or any part of them) set out in COOLSPIRiT's Sales Order Confirmation.
"Goods Manufacturer"	means the original equipment manufacturer.
"Goods Specification"	means any specification for the Goods that is agreed in writing by the Customer and COOLSPIRiT.
"Intellectual Property Rights"	means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

“Order”	means the Customer's order for the supply of Goods and/or Services from COOLSPIRiT, as set out in the Customer's purchase order form.
“Sales Order Confirmation”	means COOLSPIRiT's confirmation of the Customer's Order.
“Services”	means the services, including the Deliverables, supplied by COOLSPIRiT to the Customer as set out in the Service Specification.
“Service Specification”	means the description or specification for the Services provided in writing by COOLSPIRiT to the Customer in COOLSPIRiT's Sales Order Confirmation.
“Statement of Works”	Means Coolspitit's schedule of Services (but not Goods) to be provided.
“Supplier”	means COOLSPIRiT Limited (registered in England and Wales with company number 03600170) whose registered office address is 24 The Bridge Business Centre, Beresford Way, Chesterfield, S41 9FG.
“Supplier Materials”	has the meaning set out in clause 7.1.7.

2. Basis of Contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from COOLSPIRiT in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when COOLSPIRiT issues written acceptance of the Order at which point and on which date the Contract shall come into existence (“Commencement Date”).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of COOLSPIRiT which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by COOLSPIRiT and any illustrations or descriptions of the Services contained in COOLSPIRiT's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by COOLSPIRiT shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. Goods and Delivery of Goods

- 3.1 The Goods are described in Goods Specification. COOLSPIRiT reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.
- 3.2 COOLSPIRiT shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("Delivery Location") at any time after COOLSPIRiT notifies the Customer that the Goods are ready for dispatch.
- 3.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 3.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence.
- 3.5 If COOLSPIRiT fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. COOLSPIRiT shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide COOLSPIRiT with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 3.6 If the Customer fails to accept or take delivery of the Goods within 5 Business Days of COOLSPIRiT notifying the Customer that the Goods are ready for dispatch, then except where such failure or delay is caused by a Force Majeure Event or by COOLSPIRiT's failure to comply with its obligations under the Contract in respect of the Goods:
- 3.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth Business Day following the day on which COOLSPIRiT notified the Customer that the Goods were ready; and
- 3.6.2 COOLSPIRiT shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 3.7 If ten Business Days after COOLSPIRiT notified the Customer that the Goods were ready for delivery the Customer has not accepted or taken delivery of them, COOLSPIRiT may resell or otherwise dispose of part or all of the Goods.
- 3.8 COOLSPIRiT may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

4. Quality of Goods

- 4.1 COOLSPIRiT warrants that on delivery the Goods shall:
- 4.1.1 conform in all material respects with their description and the Goods Specification;
- 4.1.2 be free from material defects in material and workmanship;
- 4.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

- 4.1.4 be fit for the purpose, in all cases this warranty subsists only to the extent that the warranty is given by the Goods manufacturer.
- 4.2 Subject to clause 4.3, if:
 - 4.2.1 the Customer gives notice in writing as soon as possible but within 7 days of delivery that some or all of the Goods do not comply with the warranty set out in clause 4.1;
 - 4.2.2 COOLSPIRiT is given a reasonable opportunity of examining such Goods; and
 - 4.2.3 the Customer (if asked to do so by COOLSPIRiT) returns such Goods to COOLSPIRiT's place of business at the Customer's cost, COOLSPIRiT shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 4.3 COOLSPIRiT shall not be liable for the Goods' failure to comply with the warranty in clause 4.1 if:
 - 4.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 4.2;
 - 4.3.2 the defect arises because the Customer failed to follow COOLSPIRiT's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - 4.3.3 the Customer alters or repairs such Goods without the written consent of COOLSPIRiT;
 - 4.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; and
 - 4.3.5 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 4.4 Except as provided in this clause 4, COOLSPIRiT shall have no further liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.
- 4.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by COOLSPIRiT under clause 4.2.
- 4.6 The Goods Manufacturer may offer a lifetime guarantee for the Goods. This will only apply if the Customer has paid in full for the price of the Goods.

5. Title and Risk

- 5.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 5.2 Title to the Goods shall not pass to the Customer until COOLSPIRiT has received payment in full (in cash or cleared funds) for the Goods and any other goods that COOLSPIRiT has supplied to the Customer in respect of which payment has become due.
- 5.3 Unless challenged title of goods is acknowledged by the Customer on receipt of COOLSPIRiT's Sales Order Confirmation and shipment without any signing by the recipient.

- 5.4 Until title to the Goods has passed to the Customer, the Customer shall:
- 5.4.1 hold the Goods on a fiduciary basis as COOLSPIRiT's bailee;
 - 5.4.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as COOLSPIRiT's property;
 - 5.4.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on COOLSPIRiT's behalf from the date of delivery;
 - 5.4.4 notify COOLSPIRiT immediately if it becomes subject to any of the events listed in clause 10.1.2 to clause 10.1.12; and
 - 5.4.5 give COOLSPIRiT such information relating to the Goods as COOLSPIRiT may require from time to time, but the Customer may use the Goods in the ordinary course of its business.
- 5.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.1.2 to clause 10.3, or COOLSPIRiT reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold and without limiting any other right or remedy COOLSPIRiT may have, COOLSPIRiT may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6. Supply of Services

- 6.1 COOLSPIRiT shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 6.2 The supply of all Services, whether or not including the sale of Goods, will be carried out in accordance with COOLSPIRiT's Statement of Works which are deemed to be accepted by the Customer.
- 6.3 COOLSPIRiT shall use all reasonable endeavours to meet any performance dates for the Services specified, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 6.4 COOLSPIRiT shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and COOLSPIRiT shall notify the Customer in any such event.
- 6.5 COOLSPIRiT warrants to the Customer that the Services will be provided using reasonable care and skill.
- 6.6 All Services shall cease if the Goods and Services have not been paid for by the Customer in accordance with clause 8.

7. Customer's Obligations

- 7.1 The Customer shall:
- 7.1.1 ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;
 - 7.1.2 co-operate with COOLSPIRiT in all matters relating to the Services;
 - 7.1.3 provide COOLSPIRiT, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by COOLSPIRiT to provide the Services;
 - 7.1.4 provide COOLSPIRiT with such information and materials as COOLSPIRiT may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - 7.1.5 prepare the Customer's premises for the supply of the Services;
 - 7.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
 - 7.1.7 keep and maintain all materials, equipment, documents and other property of COOLSPIRiT ("Supplier Materials") at the Customer's premises in safe custody at its own risk, maintain COOLSPIRiT Materials in good condition until returned to COOLSPIRiT, and not dispose of or use COOLSPIRiT Materials other than in accordance with COOLSPIRiT's written instructions or authorisation.
- 7.2 If COOLSPIRiT's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("Customer Default"):
- 7.2.1 COOLSPIRiT shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays COOLSPIRiT's performance of any of its obligations;
 - 7.2.2 COOLSPIRiT shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from COOLSPIRiT's failure or delay to perform any of its obligations as set out in this clause 7.2; and
 - 7.2.3 the Customer shall reimburse COOLSPIRiT on written demand for any costs or losses sustained or incurred by COOLSPIRiT arising directly or indirectly from the Customer Default.
- 7.3 The Customer agrees during the term of this Agreement and for a period of one (1) year following its termination, not to solicit or induce any officer, employee, agent or contractor of the other party involved with the provision of the Goods and/or Services to terminate their employment or engagement with the other (as appropriate).
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8. Charges and Payment

- 8.1 The price for Goods shall be the price set out in the Sales Order Confirmation or, if no price is quoted, the price set out in COOLSPIRiT's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.
- 8.2 The charges for Services shall be on a fixed time basis:
- 8.2.1 the charges shall be calculated in accordance with COOLSPIRiT's standard daily fee rates, as set out in the Sales Order Confirmation;
 - 8.2.2 COOLSPIRiT's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days. The standard half day rate is calculated on a pro-rata basis;
 - 8.2.3 COOLSPIRiT shall be entitled to charge an overtime rate of 150% per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 8.2.2 for times not incurred on Sundays and statutory holidays and 200% of the standard daily fee rate for time incurred on Sundays and statutory holidays; and
 - 8.2.4 COOLSPIRiT shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom COOLSPIRiT engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by COOLSPIRiT for the performance of the Services, and for the cost of any materials.
- 8.3 COOLSPIRiT reserves the right to:
- 8.3.1 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. COOLSPIRiT will give the Customer written notice of any such increase 1 month before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify COOLSPIRiT in writing within 1 week of the date of COOLSPIRiT's notice and COOLSPIRiT shall have the right without limiting its other rights or remedies to terminate the Contract by giving 1 weeks' written notice to the Customer; and
 - 8.3.2 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to COOLSPIRiT that is due to:
 - 8.3.2.1 any factor beyond the control of COOLSPIRiT (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 8.3.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or

- 8.3.2.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give COOLSPIRiT adequate or accurate information or instructions in respect of the Goods.
- 8.4 In respect of Goods, COOLSPIRiT shall invoice the Customer on or at any time after completion of delivery. In respect of Services, COOLSPIRiT shall invoice the Customer on monthly in arrears.
- 8.5 The Customer shall pay each invoice submitted by COOLSPIRiT:
- 8.5.1 within 30 days of the date of the invoice; and
- 8.5.2 in full and in cleared funds to a bank account nominated in writing by COOLSPIRiT, and time for payment shall be of the essence of the Contract.
- 8.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by COOLSPIRiT to the Customer, the Customer shall, on receipt of a valid VAT invoice from COOLSPIRiT, pay to COOLSPIRiT such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 8.7 Without limiting any other right or remedy of COOLSPIRiT, if the Customer fails to make any payment due to COOLSPIRiT under the Contract by the due date for payment ("Due Date"), COOLSPIRiT shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current Nat West Bank's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 8.8 The Customer shall only be entitled to return Goods to COOLSPIRiT if, acting in its absolute discretion, COOLSPIRiT agrees to accept the return of goods and if so returned the Customer shall be obliged to pay all costs of collection and/ or delivery plus twenty five percent plus value added tax of the purchase price.
- 8.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against COOLSPIRiT in order to justify withholding payment of any such amount in whole or in part. COOLSPIRiT may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by COOLSPIRiT to the Customer.

9. Limitation of Liability: The Customer's Attention is Particularly Drawn to this Clause

- 9.1 Nothing in these Conditions shall limit or exclude COOLSPIRiT's liability for:
- 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 9.1.2 fraud or fraudulent misrepresentation;

- 9.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
 - 9.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - 9.1.5 defective products under the Consumer Protection Act 1987.
- 9.2 Subject to clause 9.1
- 9.2.1 COOLSPIRiT shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - 9.2.2 COOLSPIRiT shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the manufacture of the Goods; and
 - 9.2.3 COOLSPIRiT's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Order.
- 9.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.4 This clause 9 shall survive termination of the Contract.

10. Termination

- 10.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 10.1.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing of the breach;
 - 10.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 10.1.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

- 10.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
 - 10.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
 - 10.1.6 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 10.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - 10.1.8 a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 10.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 10.1.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.1.2 to clause 10.1.9 (inclusive);
 - 10.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
 - 10.1.12 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 10.2 Without limiting its other rights or remedies, each party may terminate the Contract:
- 10.2.1 by giving the other party 3 months' written notice;
 - 10.2.2 with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 10.3 Without limiting its other rights or remedies, COOLSPIRiT shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and COOLSPIRiT if:
- 10.3.1 the Customer fails to make pay any amount due under this Contract on the due date for payment; or
 - 10.3.2 the Customer becomes subject to any of the events listed in clause 10.1.2 to clause 10.1.12, or COOLSPIRiT reasonably believes that the Customer is about to become subject to any of them.

11. Consequences of Termination

On termination of the Contract for any reason:

- 11.1.1 the Customer shall immediately pay to COOLSPIRiT all of COOLSPIRiT's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, COOLSPIRiT shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 11.1.2 the Customer shall return all of COOLSPIRiT Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then COOLSPIRiT may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- 11.1.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 11.1.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

12. Cancellation and Postponement Charges

- 12.1 COOLSPIRiT reserves the right to levy charges for the price or part thereof as set out in the Sales Order Confirmation if:
 - 12.1.1 The work defined within the Statement of Works is being cancelled by the Customer; or
 - 12.1.2 The work defined within the Statement of Works is being postponed by the Customer; or
 - 12.1.3 The prerequisites for the defined in the Statement of Works issued are not met in full upon arrival to site by COOLSPIRiT
- 12.2 Charges levied under 12.1 above shall be based on notice of any of the circumstances under clause 12.1 being given within the following periods:
 - 12.2.1 10 or more working days' notice No charge
 - 12.2.2 3 working days' notice 50% of the price
 - 12.2.3 Less than 3 working days' notice 100% of the price
- 12.3 Notifications of postponement or cancellation must be given to COOLSPIRiT in writing.

13. Compliance with Relevant Requirements

13.1 The parties shall:

13.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");

13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

13.1.3 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and clause 13.1.2, and will enforce them where appropriate;

13.1.4 promptly report to the other any request or demand for any undue financial or other advantage of any kind received by that party in connection with the performance of this agreement;

13.1.5 provide such supporting evidence of compliance as the other party may reasonably request.

13.2 COOLSPIRiT shall ensure that any person associated with COOLSPIRiT who is performing services or providing goods in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on COOLSPIRiT in this clause 122 ("Relevant Terms").

13.3 For the purpose of this clause 122, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 122

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person associated with COOLSPIRiT includes any subcontractor of COOLSPIRiT.

14. General

14.1 Force majeure:

14.1.1 For the purposes of this Contract, "Force Majeure" Event means an event beyond the reasonable control of COOLSPIRiT including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, snow or default of suppliers or subcontractors.

14.1.2 COOLSPIRiT shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

14.1.3 If the Force Majeure Event prevents COOLSPIRiT from providing any of the Services and/ or Goods for more than 12 weeks, COOLSPIRiT shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

14.2 Assignment and subcontracting:

14.2.1 COOLSPIRiT may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

14.2.2 The Customer shall not, without the prior written consent of COOLSPIRiT, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

14.3 Notices:

14.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

14.3.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.

14.3.3 This clause 14.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

14.4 Waiver and cumulative remedies:

14.4.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a 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 preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

14.4.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

- 14.5 Severance:
- 14.5.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
 - 14.5.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 14.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 14.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 14.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by COOLSPIRiT.
- 14.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.