



S4 Terms of Supply Agreement

This Agreement ("Agreement") is by and between the company, entity or individual ("Customer" and/or "You", "Your", "Yours") who is acquiring products and services, and S4 Applications Limited, company registration number 10288524 ("S3", "We", "Our(s)" and/or "Us").

"Customer" and "Core" may be individually referred to as the "Party" and/or collectively referred to as the "Parties".

Definitions

"Quotation" shall mean order forms, issued to You by Us, which incorporates this Agreement by reference evidencing Your obligation to pay associated Fees, as set forth therein, for Software and / or Services and that is signed by duly authorized representatives of the Parties hereto.

Orders, Devices, Prices & Payment

ORDERS. You, from time to time, may issue Purchase Orders ("P.Os") for Products and/or Services at the applicable Fees and prices set forth in the Quotation. All orders are subject to approval and acceptance by Us and shall be subject to all of the terms and conditions of this Agreement.

PRICES. The prices for the Products are set forth in the applicable Quotation(s). Professional Services prices are set forth in the applicable Statement of Work(s) and/or Quotation(s). The total of the prices from applicable Statement of Work(s) and Quotation(s) are hereinafter collectively referred to as "Fee(s)".

All Fees are exclusive of all taxes and other charges, including but not limited to, shipping, handling, insurance, sales, use, value-added or other excise tax, however designated or levied, and therefore, are subject to an increase in an amount equal to any tax We may be required to collect or pay (excluding taxes on its income). You acknowledge and agree that all prepaid Fees are non-refundable and no credits shall be made.

PAYMENT. All invoices shall be due and payable within thirty (30) Calendar Days after invoice date. We may impose late charges on overdue payments at a rate equal to the lesser of one and a half (1.5%) percent per month or the highest rate legally permitted by law, calculated from the date payment was due until the date payment is made and all expenses incurred in collection, including reasonable legal fees. We may decline to make any shipments or provide services, including but not limited to Maintenance Services and/or Subscription Services, if in Our reasonable opinion, circumstances exist, which raise doubt as to Your ability or willingness to pay as provided herein. Upon default by You, We shall have other rights and remedies as may be provided by law. If You have lapsed in the payment of Maintenance Service and/or Subscription Service Fees due hereunder You shall be responsible for paying all Maintenance Service and/or Subscription Service Fees associated with such lapsed Maintenance Services and/or Subscription Services from the date that such Maintenance Services and/or Subscription Services were stopped through to the then-current date, in full, prior to recommencement of such Maintenance Service and/or Subscription Service.

TAXES. Unless you provide Us with an appropriate exemption certificate we will invoice You for VAT.



Confidentiality

“Confidential Information” means any proprietary, confidential and/or trade secret information of the disclosing Party hereto (“Discloser”) and/or others possessed by the Discloser relating to, among other things, the Discloser’s products, technology, specifications, manufacturing methods, know-how, business or marketing plans, or business relationships. Confidential Information may be disclosed either in documentary form (including without limitation traditional tangible media such as written documents, photographs and drawings, and intangible media such as diskettes and other magnetic or electronic data), or orally or visually or in other non-documentary form (including without limitation presentations, displays or inspections of writings, designs, drawings, photographs, models, prototypes, samples or facilities).

Confidential Information disclosed in documentary form shall be stamped “Confidential Information” or in some other manner clearly indicating that it is confidential or proprietary. The Discloser must confirm by written notice to the receiving Party hereto (“Receiver”) within thirty (30) Calendar Days of disclosure that Confidential Information disclosed orally, visually or in any other non-documentary form is “Confidential Information”. Notwithstanding the foregoing, the following shall be considered Confidential Information if disclosed orally or in writing by either Party during discussions concerning the business relationship: (i) all inventions, discoveries, know-how, techniques, devices, ideas, research, software implementation methods, practices, processes, systems, formulae, designs, products, projects, computer programs, improvements and developments, which have not been generally available to the public; (ii) all client or customer lists, trade secrets, or other information pertaining to the financial condition, business affairs or prospects of the Parties including, without limitation, information relative to customers, suppliers or other parties with which a Party has a business relationship, samples, sketches, bulletins, correspondence, company forms and records (including financial statements and product specification sheets), information concerning sources of supply, costs of manufacture and sale and applications of equipment, whether or not published or unpublished, confidential or protected or susceptible to protection by patent, trademark, copyright or any other form of legal protection and whether or not any attempt has been made to secure such protection; and/or (iii) all information that a reasonable prudent person would recognize as confidential when provided to Recipient.

Confidential Information shall not include information that (i) was in the public domain when disclosed; (ii) becomes public domain after disclosure, other than as a result of the Receiver’s violation of this Agreement; (iii) was in the Receiver’s lawful possession when disclosed and was not acquired directly or indirectly from the Discloser; (iv) is shown by written evidence to have been developed by the Receiver independently after disclosure without benefit of the Confidential Information; and/or (v) was received after disclosure from a Third Party who did not require it to be held in confidence and who did not acquire it directly or indirectly from the Discloser.

The Receiver (i) will not disclose Confidential Information, except to its employees or to its agents, representatives, suppliers and/or subcontractors which are bound by a written confidentiality agreement, with terms and conditions substantially similar to those presented in this the section titled “Confidentiality”; (ii) will not use Confidential Information except for the purposes contemplated by this Agreement; (iii) will use at least the same degree of care to safeguard Confidential Information that it uses to protect its own confidential and proprietary information, and

S4Applications

in any event not less than a reasonable degree of care under the circumstances; and (iv) will make copies of Confidential Information only on an “as-needed” basis for such purpose, all of which shall include any existing markings indicating that they are Confidential Information of the Discloser, or shall have markings supplied by the Receiver.

Applicable law and disputes

Parties specifically agree that the U.N. Convention on the International Sale of Goods, and the Uniform Computer Information Transactions Act (“UCITA”), shall not apply to any and all actions performed by either Party hereunder in furtherance of this Agreement.

This Agreement and all resulting claims and/or counterclaims shall be governed, construed, enforced and performed in accordance with the laws of England, without reference and/or regard to its conflicts of laws principles. Any dispute arising out of or in connection or associated with this Agreement shall be referred to and finally resolved by arbitration in accordance with the Rules of the International Chamber of Commerce (“ICC”) then in force; provided, however, that either Party may, at its sole discretion, seek injunctive relief in the courts of any jurisdiction as may be necessary and appropriate to protect its proprietary or confidential information. The language used in the arbitral proceedings, and the governing language of the Agreement, shall be English. Unless otherwise mutually agreed upon in writing by the Parties, the site of the Arbitration shall be in London, England. Judgment upon the award of the arbitration may be entered in any court having jurisdiction thereof.