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These Terms and Conditions, Version 3 Supersede any previous Terms and Conditions laid down by Kustomworks Ltd.

Project Specific Terms and Conditions

The following Terms and Conditions relate to the 'Purchaser' of 'client address' for the work relating to 'Project name'

"**Seller**" means **Kustomworks Ltd of 13 Wellington Avenue Hornsea, East Yorkshire, HU18 1SQ, UK.**

"**Purchaser**" means the company which purchases or agrees to purchase the goods and pay for the Services.

"**Client Address**" refers to the Purchasers current Address

"**Project Name**" refers the Project that the 'Seller' has been asked to provide 'services' for

"**Project Costs**" For the current project we are operating a project discount of% against our standard day rate charges of £500 per day. **See clause 5.12**

- The '**Seller's**' software is licensed and not sold as such the '**Seller**' operates a EULA (End User License Agreement) scheme, only one EULA is required to be signed per project prior to any works undertaken. Contact the '**Seller**' for a copy of your EULA.
- All GUI Designs and Program operation and Project time Scale will be defined and signed of by both the '**Seller**' and the '**Purchaser**'. This shall then be known as the 'Project Specification' and will be the basis for the contract between the '**Purchaser**' and the '**Seller**'. This will be provided as a electronic document detailing program operation and the Touch panel layouts.
- If the '**Purchaser**' wishes to incorporate equipment which is not in the '**Sellers**' current portfolio the '**Seller**' may request the equipment be made available to verify successful control of the equipment prior to turning up onsite. Although we make no guarantees to the functionality that said equipment can support.
- '**Project costs**' are based on an 8 (eight) hour day and having access to all the equipment and connected as detailed in the 'Project Specification' prior to work commencing. If access or equipment is not available the '**Seller**' cannot be held responsible and as such reserves the right to charge additional standby rates see **clause 5.13 Appendix 'A'** for further information.
- Any changes to the original specification will be classified as a 'change of works' and as such are required to be signed off by both the '**Purchaser**' and the '**Seller**' and these changes will be implemented after the original 'Project Specification' is complete, unless the change is fundamental to the system operation. All changes are chargeable at our current day rate see **clause 5.13 Appendix 'A'** for further information.

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Terms and Conditions of Contract for the Sale and Supply of Goods and Services

1. Definitions

In these Conditions, unless the context otherwise requires:

- 1.1. "Seller" means **Kustomworks Ltd of 13 Wellington Avenue Hornsea, East Yorkshire, HU18 1SQ, UK.**
- 1.2. "Purchaser" means the company which purchases or agrees to purchase the goods and pay for the Services.
- 1.3. "Conditions" means the terms and conditions set out in this document and its appendices and any other special terms and conditions agreed in writing by the Seller.
- 1.4. "Banking Day" means a day on which banks are open for business within the United Kingdom.
- 1.5. "Additional Expenses" has the meaning given to it in Clause 5.
- 1.6. "Disbursements" has the meaning given to it in Clause 5.1.2.
- 1.7. "Additional Labour Costs" has the meaning given to it in Clause 5.1.3.
- 1.8. "Goods" means the goods more particularly described in each Quotation.
- 1.9. "Guarantee" has the meaning given to it in Clause 9.1.
- 1.10. "Installation Date" means the date on which the Seller certifies to the Purchaser that the installation and any commissioning of the Goods has been completed.
- 1.11. "Offer Letter" means the letter addressed to the Purchaser by the Seller to which these Conditions are annexed.
- 1.12. "Quotations" means the quotations attached hereto and such additional quotations as may be issued by the Seller to the Purchaser.
- 1.13. "Quotation Price" means the price for the Goods and/ or Services specified in each Quotation excluding any Additional Expenses.
- 1.14. "Services" means the installation of the Goods at the Purchasers chosen location and/ or the services more particularly described in each Quotation (including, in either case, any design and engineering work incidental thereto).

2. Scope

- 2.1. These Conditions shall apply to the sale of the Goods and to the provision of the Services particularised in the Quotations accepted by the Purchaser, such Goods and Services to be supplied or provided as the case may at the Purchasers chosen location specified in the Offer Letter.
- 2.2. These Conditions supersede all previous agreements and understandings between the Purchaser and the Seller and shall apply to the exclusion of all other terms and conditions indorsed upon, delivered with or referred to in any purchase order, acceptance of order or any document delivered by the Purchaser or any counter-offer made to the Seller save to the extent that any amendment to or variation of these Conditions is expressly accepted by the Seller in writing.

3. Acceptance of Quotations

- 3.1. Each Quotation shall be open to acceptance by the Purchaser for a period of 30 days from the date of issue of the Quotation unless previously withdrawn in writing by the Seller.
- 3.2. Upon written acceptance of each Quotation, the Seller shall supply the Goods and/ or provide the Services specified therein to the Purchaser in accordance with these Conditions.

4. Pricing

- 4.1. All Quotation Prices are in UK Pounds Sterling unless otherwise stated and will include VAT at the current rate.
- 4.2. Each Quotation Price shall be binding on the Seller provided that the Purchaser shall have accepted the corresponding Quotation within 30 days of the date of issue of the Quotation save that the Seller may, by giving notice to the Purchaser at any time up to 7 days before delivery of the Goods and/ or commencement of the Services specified in any Quotation, increase that Quotation Price to reflect any increase in the cost to the Seller in the supply of the Goods and/ or provision of the Services which is due to any foreign exchange rate fluctuation arising after the date of the Quotation.



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5. Additional Expenses

- 5.1. Other than as specifically included in the scope of any Quotation, all expenses incurred by the Seller in the supply of the Goods and/ or provision of the Services (the "Additional Expenses") shall be payable by the Purchaser in accordance with Clause 6. Such Additional Expenses shall include (without limitation):
 - 5.1.1. Packing and transportation costs: All packing, freight and related shipping and carrier charges; insurance costs; taxes (including value added tax), costs of customs clearance and duties payable in relation to the Goods; costs of warehousing and storage of the Goods in transit or at any time prior to delivery; and any other costs incurred in relation to the transportation of the Goods;
 - 5.1.2. Disbursements and out-of-pocket expenses: All flights, travel and associated expenses such as the cost of any inoculations, visas or equivalent travel permits required by the Sellers employees or agents; and all accommodation and other reasonable expenses (including sustenance) incurred by the Sellers employees or agents during the supply of the Goods and/ or provision of the Services or otherwise in accordance with these Conditions (the "Disbursements"); and
 - 5.1.3. Additional labour costs: All additional labour costs relating to or arising from the supply of the Goods and/ or provision of the Services such as the refit, refurbishment or refinishing of any area of the installation following completion of the installation of the Goods (the "Additional Labour Costs") (and again, and for the avoidance of doubt, excludes those labour costs specifically included in the scope of any Quotation).
- 5.2. For the purposes of Clause 5.1.2 above, all travel by the Sellers employees or agents in their own vehicles shall be charged in accordance with Appendix A attached hereto.
- 5.3. For the purposes of Clause 5.1.3 above, all Additional Labour Costs shall be calculated in accordance with Appendix A attached hereto.

6. Payment for Goods, Services and Additional Expenses

- 6.1. Unless a differing payment term is expressly agreed in writing by the Seller, the Purchaser shall pay for the Goods and Services and any Additional Expenses in accordance with Appendix B attached hereto.
- 6.2. If the Purchaser fails to make any payment on the due date then, without prejudice to any of the Sellers other rights, the Seller may:
 - 6.2.1. suspend or cancel deliveries of any Goods or provision of any Services to the Purchaser pending such payment; and/ or
 - 6.2.2. appropriate any payment made by the Purchaser to such of the Goods (supplied under any accepted Quotation) as the Seller may in its sole discretion think fit; and/ or
 - 6.2.3. treat these Conditions as repudiated by the Purchaser.
- 6.3. Any overdue payments shall accrue interest from the date that the payment becomes due from day to day until the date of payment at a rate of 2% (two per cent) above Lloyds TSB base rate from time to time in force and shall accrue at such a rate after as well as before any judgment.
- 6.4. Unless otherwise agreed in writing, all payments shall be made in UK Pounds Sterling.
- 6.5. Time shall be of the essence in relation to all sums due to the Seller in accordance with these Conditions.

7. Delivery of the Goods

- 7.1. The Purchaser shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.
- 7.2. The Goods shall be delivered to the purchaser. Where the Purchaser or its agents fail to take delivery of the Goods (or any of them) or such delivery is rendered temporarily impractical for any reason, the Seller may (without prejudice to any other right or remedy available to the Seller) deliver such Goods into storage until actual delivery and charge for the reasonable costs (including insurance) of storage as an Additional Expense. Such delivery into storage shall constitute delivery for the purposes of any payment due to the Seller in accordance with Clause 6.
- 7.3. If the Purchaser shall fail or refuse to take delivery of the Goods (or any of them) then, without prejudice to any of the Sellers other rights, the Seller may:
 - 7.3.1. suspend or cancel deliveries of any Goods or provision of any Services pending acceptance of delivery of the Goods in question by the Purchaser; and/ or
 - 7.3.2. treat these Conditions as repudiated by the Purchaser.
- 7.4. Any time frame referred to in the Offer Letter for delivery of the Goods and/ or provision of the Services shall be taken only as an estimate made by the Seller in good faith and time shall not be of the essence in relation thereto. The Seller shall be under no obligation or liability in respect of any delay or failure to deliver the Goods or Services (or any of them) caused directly or indirectly by reason of war, strikes, lock-outs or non-delivery of the Goods to the Seller by any third party.



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8. Risk and Title

- 8.1. Risk of damage to or loss of the Goods or any part thereof shall pass to the Purchaser on delivery of those Goods to the Purchaser chosen location (or otherwise in accordance with these Conditions).
- 8.2. Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, title to the Goods shall not pass to the Purchaser until such time as the Seller has received payment in full for all the Goods and Services specified in all accepted Quotations and any Additional Expenses and no sum remains due to the Seller.
- 8.3. Until such time as title to the Goods passes to the Purchaser, the Purchaser shall hold the Goods as the Sellers fiduciary agent and bailee and shall (as far as reasonably practical) keep the Goods separate from those of the Purchaser and third parties and properly stored, protected and insured and identified as the Sellers property, but the Purchaser shall be entitled to use the Goods in the ordinary course of its business (but not sell or otherwise transfer or part with possession of the Goods).
- 8.4. Until such time as title in the Goods passes to the Purchaser, the Seller shall be entitled at any time to require the Purchaser to return the Goods to the Seller and, should the Purchaser fail to do so forthwith, to enter upon any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.
- 8.5. The Purchaser shall not be entitled to pledge or in any way charge by way of security or otherwise any of the Goods which remain the property of the Seller, but if the Purchaser does so all monies owing by the Purchaser to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

9. Guarantee

- 9.1. The Goods shall be guaranteed by the Seller against defects for a period of 12 months from the date of purchase inline with the manufacturers standard warranty.
(the "Guarantee") is subject to the following terms:
 - 9.1.1. The Sellers liability under the Guarantee shall be limited to:
 - 9.1.1.1. repair of the Goods in question; or
 - 9.1.1.2. replacement of the Goods in question.
 - 9.1.2. The Seller may at its option carry out any repair or replacement works either through its own employees or through a local agent.
 - 9.1.3. The Seller shall be under no liability under the Guarantee in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Purchaser, its employees or agents, or as a result of the misuse of the Goods by the Purchaser, its employees or agents or other cause beyond the reasonable control of the Seller.
 - 9.1.4. In the event of a valid claim under the Guarantee:
 - 9.1.4.1. the costs of repair or replacement of the Goods shall be for the Sellers account;
 - 9.1.4.2. any time spent travelling and/ or waiting or en route thereto by the Sellers employees or agents (the cost of which shall be calculated in accordance with Appendix A) and any Disbursements shall be charged to the Purchaser as Additional Expenses.
 - 9.1.5. In the event of an invalid claim under the Guarantee, all costs incurred by the Seller in connection therewith (including but not limited to the cost of any time spent travelling and Disbursements) shall be charged to the Purchaser as Additional Expenses.
- 9.2. The Guarantee does not confer any rights other than those expressly set out above and does not cover claims for consequential loss or damage. The Guarantee is offered as an extra benefit and does not affect the Purchasers statutory rights.



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10. Warranties and liability

- 10.1. The Seller warrants to the Purchaser that the Services will be provided with reasonable skill and care. In the event of an intended claim in relation to this warranty, the Purchaser shall submit to the Seller a written report of the circumstances giving rise to such claim within 21 days of the discovery by, or notification to, the Purchaser of the defect.
- 10.2. Any data or other information relating to the performance of the Goods published or communicated to the Purchaser by the Seller is based on data or information obtained from the manufacturer of the Goods and shall not be incorporated as a term of these Conditions.
- 10.3. Save as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law and no warranty, either express or implied, is given as to the compliance of the Goods and Services with any applicable regulations other than as may be notified to, and expressly agreed in writing by, the Seller or otherwise as expressly provided in these Conditions.
- 10.4. The Seller shall not, save as required by law, be liable to the Purchaser 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 these Conditions, for any indirect, special or consequential loss or damage (whether for loss of profit, loss of use or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use by the Purchaser and/or the supply of the Services, except as expressly provided in these Conditions.
- 10.5. The entire liability of the Seller under or in connection with these Conditions shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 10.6. Nothing in these Conditions shall operate to limit or exclude any liability for fraud.
- 10.7. Nothing in these Conditions shall have the effect of limiting or excluding the Sellers liability for death or personal injury arising out of its negligence or otherwise as prohibited by law.

11. Breach and Insolvency of Purchaser

- 11.1. This clause applies if:
 - 11.1.1. The Purchaser makes any voluntary arrangement with any of its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation or makes or becomes subject to any procedure analogous to the foregoing (otherwise than for the purposes of amalgamation or reconstruction); or
 - 11.1.2. A creditor takes possession, or a receiver is appointed, over any of the property or assets of the Purchaser (or any event or procedure analogous to the foregoing); or
 - 11.1.3. The Purchaser ceases, or threatens to cease, to carry on business; or
 - 11.1.4. The Seller has reasonable cause to believe that the events mentioned above are likely to occur in relation to the Purchaser; or
 - 11.1.5. The Purchaser commits any material breach of any of the provisions of these Conditions and, in the case of a breach capable of remedy, fails to remedy the same within 10 days of receipt of notice from the Seller giving particulars of the breach and requiring it to be remedied.
- 11.2. If this clause applies then, without prejudice to any other right or remedy available to the Seller:-
 - 11.2.1. The Seller shall be entitled to suspend any further deliveries of Goods or provision of Services under these Conditions without any liability to the Purchaser; and
 - 11.2.2. If any Goods have been delivered and/ or Services provided, but not paid for, all sums due to the Purchaser shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12. Intellectual Property

- 12.1. All patents, copyrights, design rights and trade marks, rights to confidence and all other intellectual property rights, whether registered or unregistered in any part of the world, in or developed by the Seller in relation to the Goods or performance of the Services (including any information contained in any plan, drawing or technical documentation) are and shall remain the property of the Seller.
- 12.2. The Seller does not warrant that the Goods or Services or any use thereof does not or will not constitute an infringement of any patent or other intellectual property right of any third party and no warranty, condition or representation shall be implied in this regard, it being accepted that this is the responsibility of the Purchaser.



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13. General

- 13.1. The Seller shall be under no obligation to perform any of the Services which require the Sellers employees or agents to attend in any jurisdiction designated as not recommended for travel by the United Kingdom Foreign and Commonwealth Office (or otherwise designated to equivalent effect by any other competent United Kingdom government authority). The Purchaser shall also cooperate with the Seller with regard to any visas or other travel permits required by any of the Sellers employees or agents in connection with the supply of the Goods, provision of the Services or otherwise in accordance with these Conditions.
- 13.2. Other than with the prior written approval of the Seller, the Purchaser may not transfer any of its rights, liabilities or obligations under these Conditions.
- 13.3. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or, in the case of the Purchaser, to its employees or agents on location, or to such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 13.4. Save insofar as otherwise expressly provided, any amount stated in these Conditions or any Quotation is expressed exclusive of any value added tax or other applicable sales tax and any value added tax or other applicable sales tax arising in respect of any supply made hereunder shall on the issue of a valid tax invoice in respect of the same be paid to the Seller by the Purchaser in addition to any other consideration payable therefore.
- 13.5. All payments payable by the Purchaser under these Conditions shall be made without set-off or counterclaim of any description. If the Purchaser is required at any time by any applicable law to make any such deduction from any payment due, that payment shall be increased by such amount as will result in receipt by the Seller of a net sum equal to the sum that the Seller would have received had no such deduction been required.
- 13.6. No delay or failure on the part of the Seller in enforcing any provision of these Conditions shall be deemed to be a waiver or create a precedent or in any way prejudice the Sellers rights under these Conditions. The Sellers rights and remedies provided in these Conditions are cumulative and are not exclusive of any rights or remedies provided by law.
- 13.7. If any provision of these Conditions shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of these Conditions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- 13.8. References in these Conditions to persons shall include bodies' corporate, unincorporated associations and partnerships. References to the singular shall include the plural and vice versa.

14. Entire agreement and variation

- 14.1. These Conditions constitute the entire agreement and understanding between the parties with respect to their subject matter and the terms of these Conditions shall supersede any previous agreements.
- 14.2. The Purchaser acknowledges and agrees that in accepting any Quotation and these Conditions, it does not rely on and shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether a party to these Conditions or not) other than as may be expressly set out in these Conditions.
- 14.3. These Conditions may not be modified except in writing signed by the duly authorised representatives of each of the parties.

15. Law and Jurisdiction

These Conditions shall be governed by and construed in accordance with English law and any dispute arising hereunder shall be subject to the exclusive jurisdiction of the courts of England save that nothing contained in this Clause shall limit the right of the Seller to commence proceedings in any other jurisdiction for the purpose of obtaining security for any claim arising under these Conditions against the Purchaser.



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APPENDIX A

1. For the purposes of Clause 5.1.2 of the Conditions, all Additional Disbursements and Out of Pocket expenses shall be calculated on the following basis:
 - a. All travel by the Seller's employees or agents in their own vehicles shall be charged at £0.40 (forty pence) per mile.
2. For the purposes of Clause 5.1.3 of the Conditions, all Additional Labour Costs shall be calculated on the following basis:
 - a. Each period of eight hours' labour by one of the Seller's employees or agents shall be charged at £500 (Five hundred Pounds) from Monday to Friday Inclusive, pro rata for any part thereof. Weekend work is by special agreement between the 'Purchaser' and the 'Seller' only. And will be agreed upon in advance of any works commencing.
 - b. If the 'seller' agent does not have access to the equipment detailed within the original specification due circumstances outside of the 'sellers' control. Then the Seller reserves the right to charge a standby rate which covers the 'seller's' agents time and reasonable expenses. Current standby rates are set at half the current day rate From Monday to Friday.
 - c. For the purposes of Clause 7.2, any stock item returned at the request of the Purchaser shall be subject to a 35% restocking fee, plus any carriage charges to return same to the 'Seller'.

APPENDIX B

For the purposes of Clause 6.1 of the Conditions, the Purchaser shall pay:

1. the Quotation Price specified in each accepted Quotation by four instalments as follows:
 - a. 30% (Thirty per cent) of the Quotation Price within 7 Days of acceptance of the quotation to secure a programmer for the time frame allotted;
 - b. 50% (Fifty per cent) of the Quotation Price upon delivery of code prior to debugging.
 - c. 20% (Twenty per cent) of the Quotation Price also to include any additional work and expenses within 14 days of project completion.