



AGILITAS

General Terms and Conditions

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These terms and conditions are the only terms and conditions which Agilitas IT Solutions of 6 Glaisdale Parkway, Nottingham, NG8 4GP registration number 02504382 ("**Agilitas**") shall provide services business on ("**General Terms and Conditions**"), and the customer agrees to allow Agilitas IT Solutions to provide the agreed services to the Customer upon issuance of a valid PO against an agreed Quotation ("**Service Agreement**") subject to these Terms and Conditions only, such terms and override any other terms and conditions unless otherwise agreed with Agilitas.

These **General Terms and Conditions** may change from time to time and it is the responsibility of the customer to check prior to issuance of a PO.

For the purposes of these **General Terms and Conditions** the following definitions shall apply;

APPLICABLE LAWS	Any applicable law, statute, bye law, regulation, order, regulatory policy in force from time to time.
BUSINESS DAY	A day other than Saturday, Sunday or public holiday in England when banks in London are ordinarily open
BUSINESS HOURS	the period from 09.00 to 17.00 on any Business Day
CHARGES	means the amounts due to Agilitas for the Services as set out in the Service Agreement
CUSTOMER	Means the party with which Agilitas is contracting with
END CUSTOMER	Means the entity with which the Customer has contracted with and is the ultimate recipient of the Services provided by Agilitas
END USER	means the operating user of the Equipment, whether that be the Customer or the End Customer as required.
EQUIPMENT	Means the hardware listed in the Service Agreement to which Agilitas shall provide the Services on.
GOOD INDUSTRY PRACTISE	means the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
HOURS OF COVER	Means the hours within which Agilitas shall provide the Services to the Customer as detailed within the Service Agreement
INTELLECTUAL PROPERTY RIGHTS	means all industrial or intellectual property rights, including, without limitation, business and domain names, database rights, design rights (whether registered or not), moral rights, patents (including patent applications, trademarks, service marks, copyrights and all other intellectual property rights, in each case whether registered or unregistered.

ORDER	means the official purchase order issued by Customer detailing the products required by Customer which may include (but shall not be limited to) a description of the Services, Service Commencement Date, the Service Charges, the Equipment, Hours of Cover, the Service Term, the Sites and Services Levels.
PARTS	Parts used from an FSL or central location will be replenished by Customer or their partner on a reasonable endeavours basis.
QUOTATION	means a document produced by Agilitas detailing the Services(s) and the Services Charges which Agilitas delivers to Customer and/or its End Customer
REQUESTS	A request from the Customer into the Agilitas service desk to acquire the Agilitas's Services
SERVICES	the services to be provided by Agilitas as detailed within the applicable Service Agreement performed in accordance with these General Terms and Conditions
SERVICE COMMENCEMENT DATE	means the start of the Services as detailed within the Service Agreement
SERVICE LEVELS	means the Service measurements set out within these General Terms and Conditions and/or the Service Agreement
SERVICES TERM	The term as detailed within the agreed Quotation/PO
SITE(S)	means the address(es) listed in the Service Agreement which the Services are to be delivered to.

ENGAGEMENT

- 1.1 These Terms and Conditions are for the supply of products/Services from Agilitas. Neither party has power by virtue of these General Terms and Conditions to make, vary or release contractual obligations on behalf of the other party or to represent that a relationship has been constituted, or that it has any such power.
- 1.2 Neither party shall represent itself as the agent of the other party without prior consent.
- 1.3 Each order for Services from Customer shall be agreed in the following manner;
 - 1.3.1 Customer shall provide Agilitas with a request for services, setting out the requirements and specifications of the required services, including a description of what work is to be done, dates which it is to be started and finished, and any additional information reasonably requested by Agilitas from Customer to determine the work.
 - 1.3.2 The Quotation shall detail the Services, the Hours of Cover, the applicable Service Charges and shall detail the Equipment and Sites of the devices that require the Services.
 - 1.3.3 Once agreed between the parties, the Customer shall issue a PO including the

Service start date and that shall form acceptance of these General Terms and Conditions and the Services to be provided in accordance with the accepted Quotation and subsequent PO together shall be then referred to as the **Service Agreement**.

- 1.4 Both parties shall meet their own costs and expenses incurred during any Service implementation unless otherwise agreed

TERM AND TERMINATION

- 2.1 Once a PO has been received from the Customer, the Term specified in the Quotation shall remain in full force unless terminated in accordance with this Clause 3, and Clause 9 (force majeure) only.

- 2.2 Either party may terminate a Service Agreement:

2.2.1 Forthwith if the other commits any material breach of any term of these General Terms and Conditions which (in the case of a breach capable of being remedied) shall not have been remedied within thirty (30) days of a written request by the other party to remedy the same.

2.2.2 Subject to the Corporate Insolvency and Governance Act 2020 by either party if the other convenes a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composite scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or if a trustee, receiver, administrative receiver, administrator or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is granted or a meeting is convened for the purpose of considering the winding up of the other party In the event that the Corporate Insolvency and Governance Act 2020 applies, the parties hereby agree to promptly enter into reasonable discussions to mitigate and resolve any potential losses (financial or otherwise) for either party. The parties further recognise that the application of the Corporate Insolvency and Governance Act 2020 may place unreasonable hardship on the parties in certain circumstances and that both will act in good faith to mitigate the same (within the meaning of section 233B (5) (a-c)).

- 2.3 Without affecting any other right or remedy available to it, Agilitas may terminate these General Terms and Conditions and all services governed by them, with immediate effect by giving written notice to the Customer if;

2.3.1 The Customer fails to pay any undisputed amount due under these General Terms and Conditions on the due date for payment and remains in default not less than fifteen (15) days after being notified in writing to make such payment.

- 2.4 Upon termination within the terms of these General Terms and Conditions;

2.4.1 each party will immediately return any of the other party's intellectual property under its possession or control.

2.4.2 In accordance with the payment terms set out in Clause 3 (Payment), Customer shall pay to Agilitas all of Agilitas's outstanding unpaid invoices and interest and, in respect of the products/services supplied up to and including the termination date but for which no invoice has been submitted, Agilitas may submit an invoice.

- 2.5 Termination shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication

intended to come into or continue in force on or after such termination.

PAYMENT TERMS

- 3.1 In consideration for the provision of the products/services by Agilitas, Customer shall pay the Charges detailed within the Quotation and subsequent PO annually in advance for Services and monthly in arrears for project work.
- 3.2 Each undisputed invoice submitted to it by Agilitas shall be paid in full within thirty (30) days after the date of invoice.
- 3.3 Without prejudice to any other right or remedy that Agilitas may have, where Customer has failed to pay any undisputed invoice in accordance with Clause 3.2 of these General Terms and Conditions, and such Charges remain unpaid for a period of fifteen (15) days after Customer have received a written notice from Agilitas requesting payment, Agilitas may (at its option);
 - 3.3.1 Suspend the Services related to the non-payment until such payment has been made in full (such suspension shall be at no cost or penalty to Agilitas); and/or
 - 3.3.2 Require Customer to pay interest on overdue undisputed invoices shall accrue from the date the payments became correctly due. Interest will be calculated at the rate of 2% a year above the Nat West base rate until the payment is received in full.
- 3.4 Agilitas shall invoice Customer in Pounds Sterling (£)
- 3.5 Save as far as otherwise expressly provided charges are expressed exclusive of Value Added Tax (VAT) arising, which shall be payable on the issue of a valid tax invoice, but inclusive of all other charges and duties. Agilitas shall be entitled to apply indexation from the first anniversary of the Service Commencement Date. Such indexation shall not exceed the general index of retail prices (RPIX) and will be based upon the entire Service Charges payable. This indexation will be applied annually and at each yearly anniversary thereafter post agreement with Customer.

WARRANTIES

- 4.1 Customer acknowledges that Agilitas has relied and will rely upon the information supplied by Customer in specifying the products/services to be provided. Customer warrants that the information does not contain any errors or omission be misleading or inaccurate in any material respect.
- 4.2 Agilitas provides the following warranties only to Customer (and Customer acknowledge that any other statement in these General Terms and Conditions that could be interpreted as a warranty will not be treated as such):
 - 4.2.1 Agilitas will provide the products/services exercising reasonable skill and care and in accordance with the terms of these General Terms and Conditions; and
 - 4.2.2 will perform its obligations in accordance with all Applicable Laws; and
- 4.3 If Agilitas fails to comply with the warranty in clause 4.2, Agilitas may at its sole option take such steps as it deems necessary to either:
 - 4.3.1 remedy such failure; or
 - 4.3.2 refund such part of the Charges as relates to the relevant part of the services, provided that the exercise of either option by Agilitas shall constitute an entire discharge of Agilitas's liability for such failure and Customer sole and exclusive remedy and the liability of Agilitas under the warranty in clause 4.2 shall in no event exceed the Charges payable in respect of the relevant part of the Services.

4.4 The Customer hereby irrevocably represents, warrants and agrees and undertakes to Agilitas that:

- 4.4.1 will perform its obligations in accordance with all Applicable laws
- 4.4.2 it will discharge its obligations using reasonable skill and care and in accordance with Good Industry Practice

CONFIDENTIALITY

5.1 Each of the parties undertakes to the other to keep confidential all information (written, oral or electronic) concerning the business and affairs of the other and any End Customer that it shall have obtained or received as a result of the discussions leading up to the entering into of these General Terms and Conditions and in connection with its performance of its obligations under these General Terms and Conditions that has been designated in writing as being confidential, or would appear to a reasonable person to be confidential and which relates to a party's business including samples, designs, technology, technical processes, artwork, photographs, negatives, information, details, business affairs, specifications, drawings, tooling's, patterns, software and any other items or matter relating to Agilitas, Customer, the End Customer, these General Terms and Conditions, the Service Agreement, ("Confidential Information") save that which is:

- 5.1.1 Insignificant or obvious; or
- 5.1.2 Already in its possession other than because of a breach of this clause; or
- 5.1.3 Already generally available and in the public domain otherwise than because of a breach of this clause; or
- 5.1.4 A disclosure by either party of any document related to these General Terms and Conditions and which the other party has agreed in writing with the disclosing party that the information contains no commercially sensitive information: or
- 5.1.5 Information developed independently of these General Terms and Conditions or independently of the other party's Confidential Information

5.2 Each party shall not disclose any Confidential Information to any other person except such of its employees and suppliers (where agreed in writing with the disclosing party and subject to the signature by such suppliers of suitable confidentiality undertakings) as may be necessary for the performance of its obligations under these General Terms and Conditions, and each party shall ensure that any person to whom Confidential Information is disclosed to undertakes to hold it as confidential.

5.3 All Confidential Information and any copies thereof shall on demand, or upon completion of the Services, or the termination for any reason, or expiry of these Terms and Conditions (as relevant) be returned or delivered to the party whose property such Confidential Information shall become or remain (as the case may be) and all Confidential Information stored in electronic form shall be deleted permanently from each party's computers. Each party reserves the right to enter the other party's premises to remove any or all Confidential Information and to ensure compliance with this clause.

5.4 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this Clause 5 by its employees, agents, or supplier.

5.5 Where either party, in carrying out its obligations under these General Terms and Conditions, is provided with information relating to people, that party shall not (unless permitted to do so by law) disclose or make use of any such information otherwise than for the purpose for which it was provided unless that party has obtained the prior written consent of that person and has obtained the prior written consent of the other party.

LIMITATION OF LIABILITY

6.1 Neither Party excludes or limits liability for:

- 6.1.1 death or personal injury resulting from the negligence of that Party or its directors, officers, employees, contractors or agents;
- 6.1.2 fraud;
- 6.1.3 any other liability which it is not lawfully permitted to limit or exclude.

6.2 Save as otherwise mentioned in this Clause 6, the total liability of either party under these General Terms and Conditions for all claims made by the other for loss or damage suffered, however, that liability arises, shall be limited to 100% of the annual sum paid or payable for Services under the Service Agreement.

6.3 The liability of both parties to each other in respect of claims for direct physical damage to property (excluding data) arising as a direct result of the negligence of either parties' employees in the performance of these General Terms and Conditions shall be limited to £1,000,000 for any one event or connected events.

6.4 Neither Party shall be liable for any indirect or consequential losses arising out of the performance of its obligations under these General Terms and Conditions (except as provided for above) including but not limited to pure economic loss, anticipated profits, revenues, anticipated savings, loss of clients, goodwill, business opportunities, wasted overheads, loss or corruption of data, software or configurations wherever held or any other losses not flowing directly and naturally from the performance of these Terms and Conditions.

INTELLECTUAL PROPERTY RIGHTS

7.1 Customer acknowledges that all Intellectual Property Rights in and to any pre-existing materials, including methodologies, processes, software, designs, and development tools used by Agilitas, together with any modifications or enhancements to the same and all pre-existing and background Intellectual Property Rights, are owned by and shall remain vested in Agilitas.

7.2 Agilitas acknowledges that all Intellectual Property Rights in and to any materials, including methodologies, processes, software, designs, and development tools developed or used by Customer, together with any modifications or enhancements to the same and all pre-existing and background Intellectual Property Rights, are owned by and shall remain vested in Customer

7.3 In consideration of the payment of the Charges, Agilitas hereby grants to the Customer;

- 7.3.1 a non exclusive, non transferable, worldwide, royalty free licence to use the Agilitas's background IPR for the duration of the Service Term and to the extend necessary for the Customer to receive the Services in accordance with these Terms and Conditions and that of the Service Agreement

7.4 Customer grants (or shall procure the grant of) to Agilitas a non exclusive, non transferable, worldwide, royalty free licence to use any Customer provided IPR or Customer background IPR to the extend necessary to enable Agilitas to provide the Services in accordance with and for the duration of the General Terms and Conditions and the relevant Service Agreement

7.5 Neither party shall copy, decompile or reverse engineer, modify, distribute or disclose the other

Party's background IPR except as set out within these General Terms and Conditions and the relevant Service Agreement.

- 7.6 Nothing in these General Terms and Conditions will operate to transfer to or vest in either party any Intellectual Property Right in any software, product, data, or other information or materials owned by the other party or licensed to the other party by any third party.
- 7.7 Nothing in these General Terms and Conditions shall prevent either party from using during its own business ideas and know-how gained during the performance of these General Terms and Conditions, provided always that such use shall not entail.
- 7.7.1 any breach of that party's obligations in respect of Confidential Information under these General Terms and Conditions; or
 - 7.7.2 any infringement by that party of any Intellectual Property Rights of the other party or any third party.
- 7.8 The Customer shall defend and indemnify Agilitas against all claims brought and other liability awarded against Agilitas or included in a settlement approved by the Customer where such claims arise from any claim brought against Agilitas by a third party alleging infringement of that third party's IPR by Agilitas's use of the Customer provided IPR.

FORCE MAJEURE

- 8.1 Neither party shall be liable for any breach of its obligations under these General Terms and Conditions resulting from causes beyond its reasonable control including flood, storm, fire, strikes (which shall not include its own employees), insurrection or riots, embargoes, and regulations of any civil or military authority (an "Event of Force Majeure").
- 8.2 Each of the parties agree to give immediate notice (as is possible) upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.
- 8.3 If an Event of Force Majeure hinders or delays the affected party's performance of its obligations for a continuous period of more than one (1) month, then the party not affected shall be entitled to terminate any affected Service Agreements forthwith by written notice to the party subject to the Event of Force Majeure. Neither party shall have any liability to the other in respect of the termination of these General Terms and Conditions because of an Event of Force Majeure.

WAIVER

- 9.1 No terms and conditions within these General Terms and Conditions shall be deemed waived, and no breach or default excused, unless such waiver or excuse shall be in writing and signed by the party issuing the same. The waiver by either party of a breach or default of any of the provisions of these Terms and Conditions by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions, nor shall any delay or omission on the part of either party in exercising or availing itself of any right power or privilege that it has or may have hereunder operate as a waiver or any breach of default by the other party.

INVADILITY & SEVERABILITY

- 10.1 If any provision of these General Terms and 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 General Terms

and 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 that achieves to the greatest extent possible the economic, legal, and commercial objectives of the invalid or unenforceable provision.

NON-SOLICITATION

11.1 Either party shall not, without the written consent of the other party, at any time from the date on which any Services are commencing to the expiry of twelve (12) months after the completion of such Services, solicit or entice away from the other or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the other in provision of such Services, provided always that this prohibition shall not apply to unsolicited responses to general advertising campaigns

DATA PROTECTION

12.1 Each Party undertakes to the other Party that it will process personal data in compliance with the Data Protection Act 2018 and any codes of conduct or guidelines issued by the relevant regulatory authorities subject to GDPR regulations.

12.2 The General Data Protection Regulation (GDPR) (EU) 2016/679 and/or the implementation of EU Data Protection laws into national laws, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

GOVERNING LAW

13.1 These General Terms and Conditions shall be governed by and construed in accordance with the laws of England and Wales and is subject to the jurisdiction of the Courts of England.

DISPUTE RESOLUTION PROCEDURE

14.1 The parties shall attempt to resolve any dispute relating to these General Terms and Conditions through negotiations between senior executives of the parties who have authority to settle that dispute

14.2 Subject to clause 14.1, if the matter is not resolved through negotiation, the parties may at their own election attempt in good faith to resolve the dispute through Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Effective Dispute Resolution in London

14.3 If the matter has not been resolved by an ADR procedure within fifteen (15) days of the initiation of that procedure, or if either party do not wish to participate in an ADR procedure, the dispute may be referred by either party to the English courts and the parties submit their non-exclusive jurisdiction for that purpose.

CHANGE CONTROL

- 15.1 Either party may propose amendments to the rendition of the Services by giving written notice to the other party.
- 15.2 Where the Parties;
 - 15.2.1 Agree to the Change Control Notice, they shall sign it and that Change Control Notice shall amend the relevant Service Agreement
 - 15.2.2 Are unable to agree the Change Control Notice, either party may require the dispute to be dealt with in accordance with the dispute resolution procedure in Clause 14
- 15.3 The Change Control Notice shall not be within effect until signed by both parties.