

1 DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions the following terms shall have the following meanings:

“Adinet” means Adinet UK Limited (a company registered in England and Wales with company registration number 9599460), whose registered office is Northern and Shell Building, 8th Floor, Lower Thames Street, London, EC3R 6AF.

“Applicable Laws” means the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA 2018), the Regulation of Investigatory Powers Act 2000 and any and all laws, statutes, statutory instruments, directives, regulations, orders and other instruments having the force of law and any applicable codes of conduct, guidance, directions and/or determinations relating to the collection, control, processing and/or use of Data, in each case as may be amended, enacted, extended, replaced, modified, consolidated or repealed from time to time;

“Charges” means all charges arising from the installation, delivery and termination of the service including: Installation Charges, Training Charges and Service Charges.

“Conditions” means these standard terms and conditions of sale.

“Contract” means these Conditions and the Sales Proposal.

“Customer” means the company or other body corporate or person or persons set out in the Sales Proposal.

“Data” means data which may include “personal data” for the purposes of General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA 2018) about an individual in respect of whom the Customer uses the Services or that the Customer provides to Adinet, or that Adinet has access to under or in connection with this Contract;

“Information” means any and all know-how, documentation and information, whether commercial, financial, technical, operational or otherwise relating to the business, affairs, customers, suppliers or methods of one party and disclosed to, or otherwise obtained by the other party in connection with this Contract.

“Initial Term” means the initial term set out in the Contract.

“Installation Charges” means the charges for the Installation Services as set out in the Sales Proposal.

“Installation Services” means the services for the installation of any hardware or equipment and apparatus provided by Adinet as set out in the Sales Proposal.

“Intellectual Property” means any and all patents, copyright, trademarks, rights in designs, know-how, ideas, concepts, technology and any other intellectual property rights (in each case whether or not registered and existing in any part of the world) in or arising from the Services, and/or any other literature.

“Sales Quotation and/or Sales Proposal” means the Sales Proposal for the sale and purchase of Services from Aditinet or accepted by Aditinet in accordance with these Conditions.

“Services” means all services provided by Aditinet as agreed to be provided by Aditinet to the Customer under this Contract to include, but not be limited to; Installation Services, Training Services, Management and Reporting Services and any other services.

“Training Charges” means the charges for the Training Services as set out in the Sales Proposal.

“Training Services” means the training services specified in the Sales Proposal.

1.2 Headings are included for convenience only and shall not affect the construction or interpretation of this Contract. The words “include”, “includes”, “including” and “included” will be construed without limitation unless inconsistent with the context.

1.3 Working days shall be all days other than Saturdays, Sundays and public holidays in the part of the United Kingdom in which the Services are received and working hours shall be the hours of 09.00 to 17.00 (GMT/BST) on a working day.

1.4 The Sales Proposal has the same force and effect as if set out in the body of this Contract. In the event of conflict between the Sales Proposal, these Conditions and any other written agreement, the following order of precedence shall apply: (i) the other agreement to the extent unambiguously and expressly stated to vary the terms of this Contract; (ii) these Conditions; (iii) the Sales Proposal; and (iv) any other written agreement.

2 FORMATION OF CONTRACT

2.1 Any Sales Proposal sent to Aditinet by the Customer shall be accepted at the discretion of Aditinet. If so accepted, the Sales Proposal will only be accepted upon these Conditions and by means of Aditinet’s standard written acknowledgement of order or pro forma invoice.

2.2 These Conditions shall apply to the Sales Proposal. Any different or additional terms and conditions contained on or referred to in the Sales Proposal and any other documents or correspondence from Customer shall not apply to the Sales Proposal unless they are expressly accepted in writing by Aditinet.

2.3 The Customer agrees that Aditinet may (at its discretion, both before, during and after acceptance of any Signed Sales Proposal Acceptance, request such trade references and carry out such credit, bank and any other checks in respect of the Customer as Aditinet deems necessary or desirable. The Customer shall provide Aditinet with such trade references and such information and authority to carry out such checks as Aditinet may reasonably request or deem necessary.

2.4 Upon acceptance of a Customer Order by Aditinet, Aditinet will provide the Services with effect from the Commencement Date on the Sales Proposal and subject to the terms of this Contract.

3 RELATIONSHIP BETWEEN THE PARTIES

3.1 The relationship of Aditinet to the Customer is that of independent contractor and nothing contained in this Contract creates a relationship of employer and employee, principal and agent or partnership between Aditinet and the Customer.

3.2 Neither party shall pledge the credit of the other or sign any document, enter into any agreement or make any promise on behalf of the other or in any way indicate that it is entitled to do so without the prior written consent of the other party.

4 DELIVERY

4.1 Aditinet shall supply the Customer with the services as defined by the Sales Proposal.

5 INSTALLATION SERVICES

5.1 In the event that Aditinet agrees to provide Installation Services as detailed in the Sales Proposal:

5.1.1 Aditinet may inspect, at the Customer's own cost, any or all of the proposed locations prior to the performance of any Implementation Services;

5.1.2 The Customer shall promptly and at its own expense carry out any proprietary work in respect of the locations as Aditinet deems necessary or desirable in order for Aditinet to perform the Implementation of Services;

5.1.3 Aditinet shall not be obliged to perform any Installation Services in respect of any locations that it reasonably deems are not compatible with the Services or in respect of which such preparatory work requested by Aditinet has not been completed in accordance to Aditinet's reasonable satisfaction;

5.1.4 Aditinet shall not be liable for any failure or delay in the performance of the Installation Services resulting from the Customer's failure or delay in carrying out such proprietary work as may be deemed necessary by Aditinet;

5.1.5 Subject (without limitation) to the provisions of clauses 5.1 and 7, Aditinet shall use reasonable endeavours to perform the Installation Services as detailed in the Sales Proposal.

6 TRAINING SERVICES

6.1 In the event that the Customer contracts for Aditinet Training Services:

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6.1.1 subject (without limitation) to the provisions of clause 7, Aditinet shall use reasonable endeavours to perform the Training Services at the premises and for the number of days as set out in the Sales Proposal for all Customer nominated personnel: and

6.1.2 The Training Charges are non-refundable, whether or not the Customer's personnel attend or successfully complete the training to which the Training Charges relate.

7 SERVICES

7.1 Dates and Times given for performance of the Services provided by Aditinet are given in good faith and provided as an estimate only that shall not be binding.

7.2 The Customer shall provide Aditinet with access to such of its information records, IT systems, facilities, premises, vehicles and staff as may reasonably be required for the purpose of Aditinet providing the Services.

8 PRICE AND PAYMENT

8.1 Aditinet shall be entitled to invoice the Customer:

8.1.2 for the Installation Charges in advance of/following the performance of the Installation Services;

8.1.3 for the Training Charges in advance of/following the performance of the Training Services;

8.1.4 for any Service Charges monthly in advance and

8.1.5 for any other amounts arising from this Contract in arrears and subject to the payment terms as detailed on the invoice.

8.2 The Customer shall pay all invoices in full and without any deduction or set off (whether in relation to such invoice or otherwise) within the timescales specified in the relevant invoice or, if not so specified, within 30 days of the date of Aditinet's invoice.

8.3 All sums payable under this Contract are exclusive of VAT and any tax replacing it, which shall be invoiced in addition.

8.4 In the event that full payment is not received by Aditinet by the due date then without prejudice to its rights Aditinet may:

8.4.1 sue for the Charges; and/or

8.4.2 charge interest (both before and after any judgment) accruing on a daily basis and compounded monthly at the rate of 2% over the base lending rate from time to time of the Bank of England; and/or

8.4.3 without liability (subject to clause 13) suspend the provision of all Services. Reconnection of service shall be subject to payment of a reconnection fee and no liability is accepted by Aditinet for any loss howsoever arising from the suspension of the service.

8.5 In the event that full payment is not received by Aditinet by the due date by reason of failure of any direct debit payment or other payment method due to insufficient funds or cancellation or for any other reason, then without prejudice to its rights Aditinet may charge the Customer an additional fee of £25 in respect of additional administrative costs, penalties and expenses pursuant to the collection of payment.

8.6 Aditinet reserves the right to increase Charges upon providing notice to the Customer at any time prior to delivery or performance in the event that:

8.6.1 The Customer requests any change to delivery dates, quantities or specification of the Services as detailed in the Sales Proposal or change of instruction; or

8.6.2 failure or delay caused by the Customer or failure of the Customer to provide Aditinet adequate information or instruction causing an increase in costs to Aditinet ; and/or

8.6.3 Fluctuation in foreign exchange rates, alterations in any taxes or duties, variations in the costs of raw materials or components or labour or transport or by reason of any other cause whatsoever (whether or not of the same nature as the foregoing) beyond the control of Aditinet giving rise to an increase in costs of supply of Services.

9 INTELLECTUAL PROPERTY

9.1 Rights to all Intellectual Property arising from the provision of services as detailed in the Sales Proposal are retained by Aditinet or its licensors. The Customer agrees that:

9.1.1 No right to any Intellectual Property except as specified in this Contract is granted or inferred to the Customer;

9.1.2 it shall not directly or indirectly oppose or dispute the validity of (or assist any third party to oppose or dispute the validity of) any Intellectual Property rights;

9.1.3 it will not use any trade-mark or trade names or imagery which resemble Aditinet trademarks or trade names or imagery and or that might intentionally or otherwise confuse or risk misleading any third party; and

10 CONFIDENTIALITY

10.1 Information jointly shared between Aditinet and the Customer shall be treated as confidential throughout the term of this agreement and thereafter until such release as is deemed necessary is granted in writing by the owner of such information.

Furthermore Each party shall:

10.1.1 keep the other's Information confidential;

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10.1.2 shall not divulge the other's Information to any third party except for the purposes of this agreement (and shall procure that any such third party is aware of and complies with these obligations of confidentiality); and

10.1.3 shall use the other's Information only for the purposes of this agreement.

10.2 The provisions of this clause 10 shall not apply to any Information that the receiving party can show:

10.2.1 is in the public domain in substantially the same combination as that in which it was disclosed to the receiving party other than as a result of a breach of this agreement or any other obligations of confidentiality;

10.2.2 is or was lawfully received from a third party not under an obligation of confidentiality with respect thereto;

10.2.3 is required to be disclosed under operation of law, by court order or by any regulatory body of competent jurisdiction (but then only to the extent and for the purpose required); or

10.2.4 was developed independently of and without reference to confidential information disclosed by the other party.

10.3 During the term of this Contract, Aditinet may use the Customer's name as a reference or in any advertising or promotional materials, press release, tender, proposal, speech, article or other similar material without the prior written consent of the Customer. The Customer may, however, withdraw such consent at any time upon reasonable written notice to Aditinet.

11 DATA PROTECTION

11.1 The Customer warrants and represents to Aditinet (and it is a condition of this Contract) that:

11.1.1 The Customer has all necessary consents (including under all Applicable and Prevailing Laws that are in place within the jurisdiction of operation) to process any and all Data obtained through the use of the Services and to provide it to Aditinet and its representatives for them to use that Data in the provision of the Services (and the Customer shall provide proof of such consent to Aditinet and its representatives upon request); and

11.1.2 The Customer shall control, process and use any and all Data in accordance with all Applicable and Prevailing Laws that are in place within the jurisdiction of operation.

12 WARRANTIES

12.1 The Customer warrants and represents to Aditinet (and it is a condition of this Contract) that it has full capacity and authority and all necessary consents to enter into and to perform its obligations under this Contract.

12.2 Adinet warrants that all Services will be performed with reasonable skill and care.

12.3 There are no warranties, conditions, guarantees or representations as to quality, fitness for a particular purpose or noninfringement of the Services or other warranties, conditions, guarantees or representations whether express or implied, oral or in writing, given by Adinet except as expressly stated in this Contract. Time of performance of Adinet's obligations shall not be deemed material for the purposes of this agreement.

13 LIABILITY

13.1 Adinet's total aggregate liability in respect of all causes of action arising out of or in connection with this Contract (whether for breach of contract, strict liability, tort (including negligence), misrepresentation or otherwise) and subject to clause; 13.2, 13.3 and 13.4 of this contract, shall not exceed the greater of the aggregate of the Charges paid by the Customer under this Contract or £5,000.

13.2 Adinet shall not be liable for any failure or delay in the performance of any of its obligations under this Contract due to:

13.2.1 any failure of telecommunications service or 3rd party equipment;

13.2.2 any fire, explosion, flood, lightning, Act of God, act of terrorism, war, rebellion, riot, sabotage or official strike or similar labour disputes, force majeure; or

13.2.3 any events or circumstances outside the reasonable control of Adinet's, furthermore, Adinet shall under such circumstances be allowed a reasonable extension of time for the performance of its obligations.

13.3 Adinet shall not be liable, subject to Clause 13.4 of this contract, for any claim to the extent that the claim relates to loss of profits, goodwill, anticipated savings, business opportunity, data or use of data, injury to reputation, third party losses or indirect, consequential or special loss or damage regardless of the form of action, whether in contract, strict liability or tort (including negligence) and regardless of whether Adinet knew or had reason to know of the possibility of the loss, injury or damage in question.

13.4 This Contract shall not limit or exclude Adinet's liability for:

13.4.1 death or personal injury resulting from negligence;

13.4.2 fraud or fraudulent misrepresentation;

13.4.3 damage suffered by the Customer as a result of any breach by Adinet of the conditions as to title and quiet enjoyment implied by English law; or

13.4.4 any other liability the exclusion or limitation of which is not permitted by English law.

13.5 The Customer shall indemnify Aditinet in respect of damage, injury, or loss occurring to any person or property and against all actions, suits, claims, charges or expenses in connection therewith arising from the condition or use of the Services in the event and to the extent that the damage, injury, loss shall have been occasioned partly or wholly by the negligence of the Customer or its servants or agents or by any breach by the Customer of its obligations to Aditinet hereunder.

14 TERMINATION

14.1 This Contract shall come into effect on the Commencement Date as stated in the Sales Quotation unless otherwise notified in writing by Aditinet and shall continue for the Initial Term and thereafter unless and until terminated in accordance with this Contract.

14.2 Either party may terminate this agreement upon 90 days written notice to the other, such notice expiring no sooner than the expiry of the Initial Period.

14.3 Either party may terminate this Contract at any time immediately upon written notice to the other in the event that:

14.3.1 the other party commits a material breach of this Contract and, where the breach is capable of remedy, has failed to remedy such breach within 30 days of written notice requiring remediation; or

14.3.2 the other party makes an arrangement with or enters into a compromise with its creditors, becomes the subject of a voluntary arrangement, receivership, administration, liquidation or winding up, is unable to pay its debts (within the meaning of section 123 of The Insolvency Act 1986) for a continuous period of more than 30 days or otherwise becomes insolvent or suffers or is the subject of any distraint, execution, event of insolvency or event of bankruptcy or any other similar process or event, whether in the United Kingdom or otherwise.

14.4 In the event that Aditinet is entitled to terminate this Contract, then without prejudice to its right to terminate this Contract Aditinet may elect to suspend this Contract.

14.5 Upon the termination of this Contract, each party's rights, liabilities and obligations under this Contract shall cease and each party's accrued rights, liabilities and obligations and the rights, liabilities and obligations of each party that are expressly or by implication intended to come into force upon or, remain in force following, the termination of this agreement (including those terms stipulated under clauses 1, 5, 9, 10, 11, 12, 13, 14 and 15) shall survive any termination of this Contract.

14.6 On termination of this Contract for any reason

14.6.1 all amounts due to Aditinet under the Contract shall become immediately due and payable;

14.6.2 at its own cost each party shall promptly destroy or return all of the other's Information and personal data that is in its possession or control;

15 NON-COMPETITION/NON-SOLICITATION

15.1 for the duration of this agreement and for a period of one year after its termination, neither party shall directly or indirectly solicit employment or employ, engage, sub-contract or seek to employ on any basis whatsoever any person who in the preceding 12 months and on behalf of the other party has been directly or indirectly involved with the specified purpose.

15.2 for the duration of this agreement and for a period of one year after its termination, neither party shall directly or indirectly seek to solicit, engage or sub-contract on any basis whatsoever any company who in the preceding 12 months and on behalf of the other party has been directly or indirectly involved with the specified purpose.

16 GENERAL

16.1 The Customer may not assign, transfer, mortgage, charge, sub-contract, sub-licence or otherwise dispose of the whole or any part of this Contract without Aditinet's prior written consent. Aditinet may not assign, transfer, mortgage, charge, subcontract, sub-licence or otherwise dispose of the whole or any part of this Contract (including any or all of its rights under clause 9) without the Customer's prior consent.

16.2 In the event of any terms and conditions of this Contract being determined to be invalid, unlawful or unenforceable to any extent, such terms or conditions shall be severed from this Contract and the remainder of this Contract shall continue to be valid and enforceable to the fullest extent permitted by law.

16.3 The remedies available to the parties under this Contract shall not limit or exclude any other rights that either party may have against the other.

16.4 The failure or delay of either party to enforce or to exercise, at any time or for any period of time, any term of or any right, power or privilege arising pursuant to this Contract does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect either party's right later to enforce or exercise it, nor shall any single or partial exercise of any remedy, right, power or privilege preclude any further exercise of the same or the exercise of any other remedy, right, power or privilege.

16.5 This Contract contains all the terms agreed by the parties relating to its subject matter and supersedes any prior agreements, understandings or arrangements between them, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or implied from anything said or written in negotiations between the parties prior to this Contract except as set out in this Contract. Each party acknowledges and accepts that, in entering into this Contract, it has not relied upon any representation, undertaking or promise except as set out herein.

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16.6 Save as expressly provided in this Contract, no variation of or amendment to this Contract shall be effective unless made in writing and signed by authorised representatives of both parties.

16.7 Except in relation to any third party to whom Aditinet may assign, transfer, mortgage, charge, sub-contract, sub-licence or otherwise dispose of the whole or any part of this Contract under clause 15.1. Nothing in this agreement shall confer any right or benefit upon any person who is not a party to it whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

16.8 Each Contract between Aditinet and the Customer shall be given and construed in accordance with English law. The Customer submits to the jurisdiction of the English courts, however, Aditinet may enforce any judgement in any court of competent jurisdiction.