

## TERMS & CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

These are the terms and conditions on which CYBER FUSION DISTRIBUTION SERVICES LTD (“we” or “us” or “our”) is willing to trade with you. Any variation to these terms and conditions must be in writing and signed by an authorised officer of CYBER FUSION DISTRIBUTION SERVICES LTD. These Terms and Conditions and any associated quotation or purchase order (together, the Contract) apply to the purchase and sale of any Software (As a Service) and/or Support Services between us and you, to the exclusion of any other terms that you may try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 1. Definitions and Interpretation

1.1 In these Terms, the following expression shall have the meanings set out here:

Defined Term	Definition
<b>Vendor</b>	A vendor is a hardware/software manufacturer or services company that supplies goods and services via Cyber Fusion Distribution Services through the reseller to their customers.
<b>Software</b>	The pre-packaged software or electronic license supplied to the ‘reseller’ by Cyber Fusion Distribution Services pursuant to a contract purchased from one of our vendors.
<b>Software Module</b>	Any complete vendor software license/subscription or single/bundled software feature license/subscription supplied to the ‘reseller’ by Cyber Fusion Distribution Services pursuant to a contract.
<b>Software as a Service</b>	Software as a service (SaaS) is a software licensing and delivery model in which software provided by a vendor sold under contract via Cyber Fusion Distribution Services to the reseller licensed on a subscription basis and centrally hosted.
<b>Software Service Offering</b>	See Software as a Service – the dedicated software services that the vendors provide as a service only, usually sold under an annual subscription model and available for use by the customer with access to that specific software for the contracted period of time.
<b>Managed Service</b>	A managed service in this instance relates to a service that the reseller (or third-party company contracted by the reseller provides on their behalf) that remotely manages a customer’s information technology (IT) infrastructure and generally the end-user systems on a day-to-day basis. These services may include network and infrastructure management, security and monitoring.
<b>Support Services</b>	Any support services provided by the vendor to the reseller and/or end user, whether chargeable or free of charge for items such as consulting, education, training, management of any systems purchased, systems planning, development, integration and maintenance and training.
<b>End User Subscription</b>	A software agreement purchased under contract via Cyber Fusion Distribution Services by the reseller that relates to a specific customer/company where an agreed customer location and contact details are provided to the vendor and aligned to the specific vendor contract for the duration of the agreement.

## 2. Price & Description

The list price and description of the Software and/or Services you may offer to purchase from us ("the Product") is described in our respective Vendors price lists. In line with our Vendor partners we may on occasion have cause to flow down changes to the price list at various times throughout the year, however Cyber Fusion will endeavour to provide a minimum of 90 days' notice. Any description of the Product including any specifications, drawings, and data is approximate and is given by way of identification only. The use of that description does not constitute a sale by description and does not form part of our contract with you unless we say so in writing. You are responsible for ensuring that the Product ordered is suitable for its intended use by you and your customer(s) and we are not liable to you for any Product you order which you deem is unsuitable for the use you intended. All pricing and Product descriptions, liabilities and warranties of the Product will be in accordance with our respective Vendors published price list and the applicable license terms.

## 3. Payment

If you have a trade credit account with Cyber Fusion, our payment terms will be separately agreed with you at the commencement of the contract and highlighted on each invoice, or where there is no separate agreement, our standard terms will be 30 days from the date of invoice. If you do not have a pre-approved account limit, payment in advance by cash, cheque, EFT, is required and must be paid within 5 days of placing an order (failing which, we will be entitled to cancel the order without notice to you). Payments by cheque will not be considered received by us until the cheque is cleared by our bank. If any payment by you is dishonoured, we may request that an additional account processing fee be paid to cover bank charges that we have incurred.

## 4. Delivery (Contract Commencement)

Following instructions from you that delivery (contract commencement) is permitted to take place against an order, delivery will be deemed to have taken place at the time our Product is either emailed from ourselves or directly by our Vendors to you or your customers exclusive control and receipt is confirmed. When you take receipt of our Product, you must inspect it immediately and report to us as soon as is possible by email any fault or incorrect supply which must be received by us within 10 days in order for us to rectify the situation and arrange with you for the agreed course of action to be taken.

Unless we make other arrangements with you, our Vendors Product may be delivered direct to the business email address nominated in your account form, or in some instances our Vendors may initiate the software contract at the point that they enter your customers details onto their software portal and only an email notification confirming this will be sent/received.

Any date for delivery of our Product indicated by us is an estimated date for delivery only. We are under no liability for any loss or damage, however it arises, and you may not treat the relevant purchase order or these terms and conditions as terminated, if the Product is not delivered by that date.

## 5. Ownership

You do not own any of our Vendors Products that you have purchased outright. For the avoidance of doubt, references to "provision" or "sale" or "License" or similar terms in relations to our Vendors Software Service Offerings refer to making available to Customers the use of the Software Service Offerings for an agreed time, and not any provision or ownership of any software code or on-premise installed software.

You have no right to bind us to any liability to any third party by contract or otherwise. If you use our Vendors Product in Managed Services of your own or a third party, you will ensure such part of the proceeds as relates to the Product purchased from us are held in account for the provision of paying our respective invoices. Such part shall be deemed to equal in £GBP terms the amount payable or owing by you to us at the time of the receipt of such proceeds.

## 6. Assignment

Neither party may assign any rights or benefits under these terms and conditions unless they have obtained prior written consent from the other party. Any assignment by either party without of the other parties' consent shall entitle them to avoid any liability they may have to the other under these terms and conditions.

## 7. Claims

When you take delivery of our Product whether physical software or in most instances via email as a license or subscription activation code, you must inspect it immediately. You must report to us in writing anything you believe to be a fault or incorrect supply which must be received by us within 10 days of delivery/receipt otherwise we may refuse any claim you make. If our Vendors Product appears faulty or incorrect when you receive it, we may accept its return and after consulting you on the desired course of action we may either replace it with the correct Product or an equivalent Product or credit you with the price paid.

To return any Product to us, you must obtain a Return Material Authorisation Number (RMA#) from us by contacting:

<mailto:orders@cyberfusion-ds.co.uk>

We will accept the return of Product if the Product is not in accordance with your order, your proof of purchase is returned, and it is returned to us in its original condition within 5 business days of the RMA# being issued by us. You are responsible for returning the Product to us.

If you wish to return to us Product which we have correctly supplied to order you must let us know immediately on receipt of the Product. If we agree to the return of such Product there may be a handling related charge or re-stocking fee imposed by the relevant Vendor and we will work with you as required to ensure all costs fees are transparent and a suitable resolution is found between all parties for the return of the Product. In some instances where we accept the return of Product which was specifically produced to your specifications or has been damaged or altered by you, we may not credit you with the price paid for it but will raise this with you at the time of the RMA request.

If you have a dispute with us, we request that you do your utmost to notify our credit department in writing of your dispute prior to the due date of your payment for our invoice.

We agree to discuss between parties any situation where you believe that a claim is due against us for a delay in delivery or damaged/faulty Product delivered to you as a direct or indirect result of events beyond our control and come to a satisfactory conclusion.

## 8. Overdue Accounts

You must pay each invoice by each corresponding 'Due Date' as dictated by the agreed payment terms between the two parties. Any account which is not settled by the Due Date may attract a late payment fee equal to 1% of your unpaid amount specific to that invoice(s), charged monthly in arrears until the invoice(s) is paid in full. You agree that this late payment fee is a genuine pre-estimate of the loss we would suffer if you do not pay for the Product by the Due Date. If the arrangements provided under this clause would otherwise constitute a credit contract as defined in the Consumer Credit Code the time for payment of any overdue account is limited to a total period not more than 62 days from the date of invoice. Nothing in this clause imposes an obligation on us to extend our payment terms to you for any period at all and it may lead to us not accepting any further orders from you if your account is outstanding beyond 90 days from the date of invoice and no valid reason is provided and accepted by us as the reason for late payment. You agree that if there is no valid reason for an extended late payment, then it may potentially have effect on any discounts, rebates or other concessions if payment is not made in time. We may, if no mitigating circumstances are provided commence legal proceedings against you for the recovery of any account which is overdue by 90 days or more from the due date of invoice.

## 9. Warranties, Replacement or Money Back

Subject always to all the limitations, terms and conditions of a warranty contained in the contractual documents between the Vendor and Cyber Fusion, Cyber Fusion will either:

- obtain for Customer the benefit of standard end-user warranties available in respect of the equipment, software or products; or, if this is unavailable,
- grant Customer the same warranties that Cyber Fusion receive from the vendor in respect of the equipment, software or products.

To the full extent of the law all warranties or guarantees are excluded. Warranties do not apply if the Product has received inattention or interference or the Product has not been used in accordance with any performance instructions. To the extent that the law does not allow us to exclude warranties (other than a warranty as to title) but allows us to limit our liability, our liability for any claim is limited to, in relation to Software, a refund of the purchase price actually paid or the supply of equivalent Product at our absolute discretion and, in the case of services, the supply of the services again or the payment of the cost of having the service supplied again. In no circumstances are we liable for special, indirect or consequential loss including any loss of profit or of contract, even if you advise us of any special circumstances or such loss was reasonably foreseeable.

## 10. Conflict of Interest

These Terms and Conditions of supply will ordinarily operate in tandem with your own Terms and Conditions of purchase. To the extent of any discrepancy between these terms and conditions and any other (including your own) terms and conditions then both parties shall engage in discussions and come to a satisfactory conclusion as to the correct outcome on which Terms and Conditions shall apply in each instance.

## 11. Orders, Amendments & Cancellations

All communications between you and us including all purchase orders must be in writing (which includes by e-mail). No cancellations or amendments to an order will be accepted without first discussing the matter with Cyber Fusion and requesting and subsequently obtaining written consent.

If you make a change to a purchase order i.e. Software Module, or your delivery details i.e. End User Subscription details change, which causes a delay or you request to cancel an order after it has been processed by us and the Vendor, we may need to discuss a flow down of Vendor related charges that we and subsequently you may be liable for – in this instance we will open book any charges that the Vendor is looking to impose and work with you to try and ensure all parties share responsibility for bringing the situation to a satisfactory close. If you cancel an order or refuse to accept all or any of our Product in an order other than in circumstances permitted by these terms and conditions, you will be liable for any resulting damage or costs suffered by us. If the Product has been or is in the process of being licensed for you by the Vendor, again, we will open book any charges that

the Vendor is looking to impose against this order cancellation and work with you to try and ensure all parties share responsibility for bringing the situation to a satisfactory close.

## 12. Intellectual Property

These terms and conditions do not give you any intellectual property rights in the Products that we represent on behalf of our associated Vendors.

If we source any Product samples, beta software or prototypes specifically for you, you do not acquire any intellectual property rights in such samples and prototypes.

We are not liable for any infringement or unauthorised use of any intellectual property rights arising from these terms and conditions. If any dispute or claim is made in respect of any infringement or unauthorised use of intellectual property rights, we may terminate these terms and conditions by notice to you and without liability to you or any other person.

In these terms and conditions, intellectual property rights include the full benefit of any rights in any copyright, trademark, registered design, patent, trade and business names, know-how, inventions, improvements, discoveries and confidential processes and includes without limitation artistic works, images, illustrations and photographs and any adaptation or concept relating to it.

## 13. Governing Law

The Agreement and these Terms and Conditions shall be governed by and construed in accordance with the law of England.

## 14. Parties Obligations

Both parties acknowledge that:

- they are not an associate or related body corporate or related party or related entity of each other's (as such terms are defined in the Corporations Act 2001); and
- the Consumer Credit Code does not apply to these terms and conditions.

It is both parties' responsibility to ensure that their respective contact details including address details are correct and up to date at all times, and each party must promptly notify the other of any change in contact details.

If, at any time either party is aware of a situation where:

- you believe that you may not or may be unable to perform or comply with your obligations under these terms and conditions;
- you are unable to pay your accounts as they fall due for payment;
- a cheque or bill of exchange received from you is dishonoured;
- you are or become insolvent or you have an administrator appointed;
- your account is overdue and is not settled within our trading terms; or
- there is a change, or a change is proposed to your shareholding, shareholders or directors,

you agree that:

- you will immediately notify us that one or more of the above notifiable events has occurred and you will keep us notified on a monthly basis until such notifiable event no longer exists;
- we have no obligation and will cease to deliver to you any Product you have purchased while a notifiable event exists;
- we may close your account with us;
- we may request payment in advance for all Products you have ordered from us; and
- we have no obligation to respond to any offer you make to purchase any of our Product while a notifiable event exists.

For the purpose of these terms and conditions, you are insolvent if:

- a receiver or receiver and manager or an agent for a mortgagee in possession has been appointed over all of your assets and undertakings;
- you have passed an effective resolution for your voluntary winding-up or you have committed an act of bankruptcy;
- an order has been made by a Court of competent jurisdiction for you to be wound up;
- a compromise arrangement (excluding a voluntary administration) has been made legally binding on you and your creditors;
- you have presented a debtor's petition and it has been accepted by the Registrar in Bankruptcy;
- you have entered into a composition, deed of assignment or deed of arrangement under the Insolvency Act (or equivalent) with your creditors; or
- a legally binding sequestration order has been made against your estate.

## 15. Privacy

- (a) Our Privacy Policy, outlined within this document and also available upon request, forms part of these terms and conditions.
- (b) We shall conform and comply with both the GDPR and Data Protection Act 2018 in the handling of any Personal Data supplied to us. Any Personal Information supplied to us will be used solely for the purposes of administering orders placed with us or in compliance with regulatory and legislative requirements.

## PRIVACY STATEMENT

CYBER FUSION DISTRIBUTION SERVICES LTD trading as Cyber Fusion (“we” or “us” or “our”) respects your privacy and we are committed to the protection of personal information. We shall conform to the Privacy Principles outlined in the General Data Protection Regulation (GDPR).

The purpose of this Privacy Statement is to let you know how we collect, use and disclose personal information.

### Collection

We collect personal information so that we can provide you with our services and Products and to manage our activities. We only collect personal information that is relevant and where necessary.

The type of personal information we collect will depend upon the reason for its collection. If you are interested in our Products, the type of information we collect will include financial details and credit and trade references.

We collect personal information about you in a number of ways including:

- directly from you, such as when you:
  - contact us about our services or Products;
  - fill in an account application form;
  - subscribe to our newsletters or mailing lists;
  - place an order for our Products;
  - enter your personal details on our website (for example during registration or application for services, Products or employment);
  - provide information by phone or in documents sent by fax or email;
  - enter promotions, competitions or giveaways; or
  - make a payment to us;
- from organisations which we might be working together with when providing you with services or Products;
- from your representatives including executors and attorneys;
- from publicly available sources of information;
- from credit-reporting and fraud-checking agencies and credit providers for credit related purposes such as credit worthiness, credit rating, credit provision and financing;
- from our own records of your dealings with us; or
- when legally required to do so.

Where reasonable and practicable, we collect personal information directly from you rather than a third party.

When we collect personal information, we collect it in a way that is lawful, fair and not intrusive - We do not

collect sensitive information about you without your consent.

### Use & Disclosure

Personal information which we have collected for a particular purpose will not be used for any other purpose unless that purpose is related to the main purpose for which we collected the information, and it is reasonable to expect us to use or disclose the information for that other purpose.

Personal information which we collect may be used by us:

- to identify you;
- in providing services or Products to you and the administration and management of those services and Products;
- to provide you with information about our services and Products;
- to develop and improve our services to you;
- in undertaking risk assessment and management; or
- in gathering data and disclosing data to third parties such as insurance brokers and insurers;
  - credit reporting agencies;
  - financial institutions including our own bankers;
  - our professional advisors, including our accountants, auditors and lawyers;
  - service providers; and industry groups having a legitimate reason to receive such information, as necessary from time to time for our organisation's functions.

If you provide us with personally identifiable information, you may receive from time to time, telephone calls, emails or letters containing information about us. You agree to receiving emails and letters from us including information not only on the areas of interest you have indicated but all types of news and information on our services and Products. If you do not want to receive them, please contact us. At the commencement of our trading partnership, you will be asked to confirm your acceptance and also indicate your preference to receiving promotional material, when submitting information to us.

We do not provide any personal information to any third parties other than where required by law or as set out in this Privacy Statement.

We will not sell, trade or rent your personal information to others. We may provide aggregate statistics on our customers and users of our website to third parties such as advertisers, but these statistics will include no personally identifying information.

We co-operate with law enforcement agencies as required by law. We will also use or disclose personal information if we reasonably believe that it is necessary to lessen or prevent a serious or imminent threat to the life or health of a person.

### Security

All reasonable steps are taken to ensure that all information is treated confidentially, kept secure and protected against unauthorised use, modification or disclosure and is maintained only for the purpose for which it is intended. Your email address will not be distributed to any third party.

We use secure data communications technology.

You have the rights in accordance with the General Data Protection Regulation (GDPR) and we follow strict security procedure in the storage and disclosure of information that you have given us to prevent unauthorised access.

## Anonymity

Where possible, we give you the opportunity to deal with us anonymously. We may not however be able to provide you with our full range of services and Products if you do not provide us with personal information.

## Access and your Data Protection Rights

All reasonable steps are taken to correct the information we hold where that information is not accurate, up-to-date and complete.

- You have the right to access your personal information to ensure that it is accurate, relevant, up to date and complete.
- If you believe that any of your personal information is incorrect, please let us know. There is no fee for requesting access to your information, however, we may charge you the reasonable cost of processing your request.
- You can request to have your information deleted, subject to legal requirements

We may decline access to your personal information in special circumstances, such as where allowing you access could put you or another person at risk of harm, infringes on the privacy of another person or if we believe that your request for access is unlawful, frivolous or vexatious.

## Intellectual Property

Intellectual property in all material sent to you belongs to, is licensed to or is authorised for use by us. We permit you to print or download extracts from this material for your personal use only. None of this material may be used for any commercial or public use, stored in or transmitted to any other website or distributed in any other form without our prior permission.

## Cookies

Cookies that are used in any part of our website will not be utilised for collecting personally identifiable information and will only be used for internal management purposes.

In accordance with the General Data Protection Regulation (GDPR), the United Kingdom's Privacy and Electronic Communications Regulations (PECR) and Information Commissioner's Office guidance, this website follows the "Implied Consent" basis for processing cookies. The first time you visit this website you will be informed of the cookies we use and that by continuing to browse this website you are implying your consent for us to use cookies.

A cookie is a very small text file placed on your computer. Cookies help us to:

Understand browsing habits on our website

Understand the number of visitors to our website and the pages visited

Remember you when you return to our website, so we can provide you with a more personalised experience.

Most cookies are deleted as soon as you close your browser, these are known as session cookies. Others, known as persistent cookies, are stored on your computer either until you delete them, or they expire.

You can choose to block or delete cookies through your browser settings at any time.

## Links

Our website may from time to time contain links to the websites of other organisations which may be of interest to you. If you access linked sites, you do so at your own risk. We do not operate or control these third-party sites and we are not responsible for their contents, operation, privacy, accuracy or security policies. This Privacy Statement does not cover any linked sites.

## Contact Us

If any personal information you submit changes, please update that information by contacting us.

We may from time to time make changes to this Privacy Statement. The latest version of our Privacy Statement is available on our website. You can also contact us to obtain a copy of our Privacy Statement.

Requests for information about our Privacy Statement are welcomed. For further information on our Privacy Statement please contact:

Attn: Privacy Officer  
Cyber Fusion  
24 Brookside Business Park  
Stone  
Staffordshire  
ST15 0RZ