



Silverstream Technologies (UK) Ltd.

Standard Terms and Conditions  
for the purchase of goods and services  
(Version 3.0 – May 2017)

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## 1 DEFINITIONS

In these Conditions the following words and expressions shall have the following meanings, unless the context otherwise requires:

- 1.1 "Agreement" means the contract between Silverstream Technologies and the Supplier for the purchase of the Goods and/or the Services, constituted by the issue to the Supplier of a Purchase Order from Silverstream Technologies, in each case which is accepted by the Supplier in accordance with Condition 2, and to which the Conditions shall apply.
- 1.2 "Code of Conduct" means any code of conduct or general policies or guidelines issued by Silverstream Technologies or the End Purchaser, with which their suppliers and contractors are expected to comply in the supply of any goods or services and of which a copy has been made available to the Supplier, as the same may be amended or replaced from time to time.
- 1.3 "Conditions" means these standard terms and conditions, any confidentiality agreement between Silverstream Technologies and the Supplier and any other agreement which may be signed between the parties.
- 1.4 "Confidential Information" means all material and/or information provided by either Party to the other Party, whether in writing or otherwise, which is expressly described as confidential and/or ought reasonably to be treated as confidential and/or proprietary. It shall not include any information to the extent that such information (a) is or becomes public other than through a breach of this Agreement; (b) is received by the other Party from a third party who, to the other Party's knowledge after reasonable inquiry, owes no obligation of confidentiality with respect to that information, (c) can be demonstrated was known to the other Party at the time of disclosure or (d) is independently developed by the other Party.
- 1.5 "Data Protection Law" means the Data Protection Act 1998 and all other applicable laws and regulations from time to time in force relating to the processing of personal data, data protection and/or privacy.
- 1.6 "Delivery" means the delivery of the Goods and/or Services to the Delivery Place, and in the case of Goods DDP (Incoterms 2010) or as otherwise agreed in writing by the Parties.
- 1.7 "Delivery Place" means the place identified in the Purchaser Order to which the Goods are to be delivered and/or at which the Services are to be performed (if at a place other than the Supplier's own premises) or as may otherwise be notified by the Silverstream Technologies to the Supplier.
- 1.8 "End Purchaser" means the customer of Silverstream Technologies to whom the Goods or Services are or are to be supplied by Silverstream Technologies, whether separately or incorporated into another product or as part of a package of products or otherwise, and shall include any subsequent purchaser thereof or of any vessel or other item of any nature into which they have been incorporated.
- 1.9 "Force Majeure" means an event or circumstance which is beyond the reasonable control of a Party which by its nature could not reasonably have been foreseen by that Party and which prevents or delays that Party from performing its obligations under the Agreement, including without limitation acts of God, fire, unexpected flooding and other extreme weather conditions, earthquake, explosion, power failure or severe reduction in power supplies, war or acts of terrorism or civil disturbance, the act of any government or authority and strikes, lock-outs and labour disputes (in each case, of national and not merely local effect).

- 1.10 "Goods" means all materials, components, goods, equipment and other items (including any part or part supply of them) set out in, and/or which are supplied under, the Agreement.
- 1.11 "Guaranteed Defect" means any defect which is of the type, and which occurs within the period, specified in Condition 13.1.
- 1.12 "Intellectual Property Rights" means (i) patents, inventions, designs, copyright and related rights, database rights, trade marks (whether registered or unregistered) and related goodwill, trade names (whether registered or unregistered), and rights to apply for registration; (ii) applications, extensions and renewals in relation to any of these rights; and (iii) all other rights of a similar nature or having an equivalent effect anywhere in the world..
- 1.13 "Party" means Silverstream Technologies or the Supplier, as the case may be, and "Parties" means both of them.
- 1.14 "Price" means the price for the Goods and/or the Services set out in the Purchase Order.
- 1.15 "Purchase Order" means the written order for the Goods and/or Services issued by Silverstream Technologies.
- 1.16 "Services" means all services to be performed by the Supplier pursuant to the Agreement, which may include some or all of the following: design, engineering, construction, installation, commissioning, audit, survey, certification, data processing or any form of advisory or consultancy services.
- 1.17 "Specification" means any plans, drawings, data, samples or other descriptions, including dimensions, colour, finish, materials and tolerances and including written instructions or information in each case supplied by one Party to the other Party relating to the Goods and/or Services.
- 1.18 "Silverstream Technologies" means SILVERSTREAM TECHNOLOGIES B.V. (registered in the Netherlands with Chamber of Commerce number B.V. 1616869 having its corporate seat at Amsterdam, the Netherlands) or, as the case may be, any of its associate or subsidiary companies.
- 1.19 "Silverstream Technologies Address" means Silverstream Technologies B.V., 57 Grosvenor Street, London W1K 3JA, [info@silverstream-tech.com](mailto:info@silverstream-tech.com), or such other postal or email address as Silverstream Technologies shall notify to the Supplier.
- 1.20 "Supplier" means any person (whether an individual, a company or another legal entity) with whom Silverstream Technologies enters into an Agreement and such expression includes (where the context requires) all officers, employees, representatives, affiliates or agents employed or acting on behalf of the Supplier.
- 1.21 "VAT" means value added, services, sales, goods and services, turnover, use, distribution, consumption or similar or corresponding tax or equivalent indirect tax imposed in any jurisdiction.

## 2 THE AGREEMENT

- 2.1 The Purchase Order constitutes an offer by Silverstream Technologies to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Purchase Order shall be deemed to be accepted on the earlier of:
- 2.2.1 the Supplier issuing written or verbal acceptance of the Purchase Order; or

- 2.2.2 any act by the Supplier consistent with fulfilling the Purchase Order, including the receipt of any payment from the Supplier in relation to the Agreement, at which point the Agreement shall come into existence. If the Supplier does not or is unable to accept a Purchase Order, it shall notify Silverstream Technologies promptly.
- 2.3 A Purchase Order may be:
- 2.3.1 withdrawn or amended by Silverstream Technologies at any time before acceptance by the Supplier;
  - 2.3.2 amended by Silverstream Technologies after it has been accepted by the Supplier, with the agreement of the Supplier (such agreement not to be unreasonably withheld or delayed);
  - 2.3.3 cancelled by Silverstream Technologies after it has been accepted by the Supplier, in accordance with Condition 12.2.2.
- 2.4 Unless otherwise mutually agreed in writing these Conditions shall apply to all Purchase Orders placed by Silverstream Technologies with the Supplier for the purchase of Goods and/or Services, to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. These Conditions supersede any terms and conditions of purchase or supply previously issued by or to Silverstream Technologies.
- 2.5 The Supplier shall ensure that at all times it: (i) has and maintains all the necessary licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Agreement in respect of the supply of the Goods and/or Services; (ii) complies with all applicable laws, regulations and standards; and (iii) complies with the Code of Conduct and such other policies as Silverstream Technologies may notify to the Supplier from time to time. The Code of Conduct and such other policies shall be deemed incorporated within the Agreement.
- 2.6 The Supplier warrants that it has a complete understanding of the Specification and the nature of the Goods and/or Services and that it is able to supply the same without reliance on any further information or other details to be supplied by Silverstream Technologies.
- 2.7 Any change in the Specification or any part of the Goods or Services after acceptance of the Purchase Order by the Supplier shall only affect the Price or the date for Delivery if agreed in writing by Silverstream Technologies.

### 3 PRICE

- 3.1 The Price shall be the full, fixed and exclusive remuneration of the Supplier.
- 3.2 The Price is exclusive of any VAT. Where any taxable supply for VAT purposes is made under the Agreement by the Supplier to Silverstream Technologies, Silverstream Technologies shall after receipt of a valid VAT invoice from the Supplier pay to the Supplier (at the same time as payment of the Price is due) such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services. The Supplier shall be responsible for all other taxes, deductions and withholdings of any nature which apply to the Price.
- 3.3 With respect to Goods, unless otherwise agreed in writing between the Parties, the Price is inclusive of the costs of all materials and equipment incorporated therein and used for their manufacture together with packaging, insurance, carriage and Delivery.

- 3.4 The Price shall not be increased without the prior written consent of Silverstream Technologies, whether due to an increase in the Supplier's direct or indirect costs and expenses in connection with the performance of the Services, additional Goods or Services being required due to an error of the Supplier, increased material, labour or transport costs, fluctuation in rates of exchange or otherwise howsoever arising.
- 3.5 If the Purchase Order specifies a retention of any part of the Price, the amount in question shall be retained by Silverstream Technologies and paid to the Supplier at the end of the period for retention specified in the Purchase Order (or if no period is specified 12 months after final Delivery), provided that Silverstream Technologies shall be entitled to apply the amount retained in whole or in part towards settlement of any outstanding claims against the Supplier.
- 3.6 Where any part of the Price is determined by reference to the amount of time and/or materials employed in connection with the Goods and/or Services, the Supplier shall account on an "open book" basis and implement reasonable procedures to enable Silverstream Technologies to monitor and verify all variable and reimbursable charges. The Supplier agrees to provide to Silverstream Technologies such information as it may request, including budgets and estimates in advance of work, time records and rates for all personnel and invoices from its suppliers. Silverstream Technologies shall have the right, at any time during a period of 12 months after the final Delivery upon seven days' notice in writing, to examine all the Supplier's (and any of its subcontractors') books, accounts and other records relating to the Goods and/or Services, all of which the Supplier shall maintain in complete form for such period. Payment of any invoice shall not affect the right of Silverstream Technologies subsequently to question any amount paid and to be reimbursed any overpayment.
- 3.7 No costs incurred prior to the date of the Purchase Order may be claimed unless agreed in writing.

#### 4 SUPPLY OF GOODS

- 4.1 It shall be a condition of the Agreement that all Goods shall:
  - 4.1.1 comply in all respects with their description and any applicable Specification;
  - 4.1.2 be of best quality for use in the manufacture of products for the marine industry;
  - 4.1.3 be fit for any purpose expressly or impliedly made known to the Supplier by Silverstream Technologies;
  - 4.1.4 be free from defects in design, materials and workmanship; and
  - 4.1.5 comply with all applicable statutory, regulatory and Classification Society requirements, together with applicable standards (including ISO) relating to the manufacture, labelling, packaging, storage, handling, operation and delivery of Goods.
- 4.2 The provisions of Condition 4.1 shall be in addition to, and not in substitution for, any terms implied by statute as to the quality of the Goods.
- 4.3 The provisions of this Condition 4 shall survive any performance, acceptance or payment pursuant to the Agreement and shall extend to any substituted or remedial Goods provided by the Supplier.
- 4.4 If so requested by Silverstream Technologies, the Supplier will supply user manuals for the Goods in an agreed form, suitable to be passed to the End Purchaser.

- 4.5 The Supplier confirms that the Goods shall be capable of being lawfully resold, whether separately or incorporated into another product or as part of a package of products or otherwise, in the Delivery Place and any other jurisdictions notified to the Supplier by Silverstream Technologies and the Supplier will provide a Certificate of Origin and such other documentation as Silverstream Technologies may reasonably require to facilitate such resale of the Goods.
- 4.6 If the Goods incorporate any components sourced from third parties ("Third Party Components"), the Supplier will remain responsible for checking the Third Party Components which it receives to ensure that they: (i) match the relevant specification and description for those items; (ii) are of satisfactory quality; (iii) are fit for their usual purpose and the intended purpose of the Goods advised to the Supplier by Silverstream Technologies; and (iv) otherwise conform in all respects with the requirements of the Agreement applicable thereto.

## 5 SUPPLY OF SERVICES

- 5.1 In providing the Services, the Supplier shall:
- 5.1.1 co-operate with Silverstream Technologies in all matters relating to the Services, and comply with all of Silverstream Technologies' instructions;
  - 5.1.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 5.1.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement and shall ensure that such personnel conform to all applicable health and safety requirements (including use of personal protective equipment whether specifically notified to the Supplier or not) of Silverstream Technologies when present at any of the Silverstream Technologies sites;
  - 5.1.4 ensure that the Services will conform with any description and Specification and shall be fit for any purpose expressly or impliedly made known to the Supplier by Silverstream Technologies;
  - 5.1.5 provide all materials, equipment, tools and vehicles and such other items and consumables as are required to provide the Services;
  - 5.1.6 use the best quality goods, materials, standards and techniques, and ensure that all goods and materials supplied and used in the Services or transferred to Silverstream Technologies, will be free from defects in design, materials, workmanship and installation; and
  - 5.1.7 not do or omit to do anything which may cause Silverstream Technologies to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Silverstream Technologies may rely or act on the Services.
- 5.2 The provisions of Condition 5.1 shall be in addition to, and not in substitution for, any terms implied by statute as to the title, quality and fitness for purpose of any goods used in the supply of the Services.
- 5.3 The provisions of this Condition 5 shall survive any performance, acceptance or payment pursuant to the Agreement and shall extend to any substituted or remedial Services provided by the Supplier.

## 6 INSPECTION AND TESTING PROTOCOL

- 6.1 Silverstream Technologies shall have the right to inspect and test the Goods at any facility of the Supplier at any time before despatch for Delivery, upon reasonable notice being given to the Supplier. Silverstream Technologies shall be notified of any tests or trials of the Goods or any material component to be undertaken by the Supplier sufficiently in advance to enable it to attend the same. If, following inspection and/or testing, Silverstream Technologies considers that the Goods or any material component do not conform or are unlikely to comply with the Supplier's undertakings at Condition 4, Silverstream Technologies shall notify the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 6.2 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Agreement and Silverstream Technologies shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

## 7 PERFORMANCE TESTS AND ACCEPTANCE PROTOCOL

- 7.1 Silverstream Technologies shall have the right to inspect and test the Goods upon Delivery to ascertain whether the Goods comply with the Supplier's undertakings under Condition 4.
- 7.2 Silverstream Technologies shall not be obliged to inspect and test the Goods immediately upon or following Delivery and shall be entitled to leave Goods packaged and wrapped until such time as they are required for installation or use in the manufacturing of Silverstream Technologies' products. If, following inspection and/or testing, Silverstream Technologies determines that the Goods do not comply with the Supplier's undertakings at Condition 4, Silverstream Technologies will notify the Supplier and the Supplier will collect the Goods without delay, without prejudice to Silverstream Technologies' other rights or remedies.
- 7.3 The rights of Silverstream Technologies as set out at Condition 7.2 will not be affected by section 35(4) of the Sale of Goods Act 1979 (as amended), which is hereby excluded.

## 8 DELIVERY

- 8.1 The Supplier shall ensure that:
- 8.1.1 it complies with the Silverstream Technologies Delivery and Packaging Standards which shall form an integral part of the Agreement and which are freely available to the Supplier and on Silverstream Technologies' website at [www.SilverstreamTechnologies.com](http://www.SilverstreamTechnologies.com); and
  - 8.1.2 the Goods are properly packaged and secured in such manner so as to enable them to reach their destination in good condition.
- 8.2 The Supplier shall deliver the Goods and/or supply the Services:
- 8.2.1 on the date(s) and if specified, at the time(s), set out in the Purchase Order or, if no date or time is specified in the Purchase Order, within a reasonable time of the communication of the Purchase Order by Silverstream Technologies to the Supplier;
  - 8.2.2 to the Delivery Place.
- 8.3 Risk in the Goods shall pass to Silverstream Technologies upon Delivery.



- 8.4 Ownership of the Goods shall pass to Silverstream Technologies upon the earlier of payment of the Price (or any relevant part thereof) and Delivery.
- 8.5 Any container or packaging which is intended to be returned to the Supplier remains the property of the Supplier and at the Supplier's risk at all times.
- 8.6 Upon Delivery or in advance of Delivery, at Silverstream Technologies' election, the Supplier shall provide Silverstream Technologies with all relevant inspection documentation, which shall include but not be limited to reports on quality control, test and Classification certificates, time schedules, progress reports and any danger/ risk analysis documentation in respect of CE marks.

## 9 NON-COMPLIANT GOODS

- 9.1 If the Supplier has delivered Goods that do not comply in every respect with in Condition 4.1 then, without prejudice to its other rights or remedies, Silverstream Technologies may do one or more of the following:
  - 9.1.1 reject the Goods (in whole or in part) whether or not title has passed and return them to the Supplier, at the Supplier's risk and expense;
  - 9.1.2 terminate the Agreement with immediate effect by giving notice to the Supplier;
  - 9.1.3 require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the Price of the rejected Goods (to the extent paid);
  - 9.1.4 refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 9.1.5 recover from the Supplier any expenditure incurred by Silverstream Technologies in obtaining substitute goods from a third party or in rectifying any defect or deficiency in the Goods; and/or
  - 9.1.6 claim damages for any additional costs, loss or expenses incurred by Silverstream Technologies arising from the Supplier's failure to deliver the Goods in accordance with Condition 4.1.

## 10 DELAY

- 10.1 It is agreed that time is of the essence in respect of Delivery under the Agreement. If the Supplier fails to supply the Goods and/or Services by the date(s) and time(s) for Delivery specified in the Purchase Order, subject to Conditions 10.2 and 23 but without prejudice to its other rights or remedies, Silverstream Technologies may do one or more of the following:
  - 10.1.1 terminate the Purchase Order and/or the Agreement with immediate effect by giving notice to the Supplier;
  - 10.1.2 refuse to accept any subsequent supply of the Services and/or the Goods which the Supplier attempts to make;
  - 10.1.3 recover from the Supplier any costs incurred by Silverstream Technologies in obtaining substitute goods and/or services from a third party;
  - 10.1.4 where Silverstream Technologies has paid in advance for Services and/or Goods which have not been supplied by the Supplier, to have such sums refunded by the Supplier; and/or

- 10.1.5 claim damages for any additional costs, loss or expenses incurred by Silverstream Technologies which are in any way attributable to the Supplier's failure to meet such date(s) and time(s).
- 10.2 Silverstream Technologies shall have the right to claim or deduct liquidated damages for any delay in Delivery which shall be the amount specified in the Purchase Order or, if no amount is specified, 2% of the total price payable under the Purchase Order for the delayed Goods or Services per complete week of delay, up to the amount specified as the maximum liquidated damages in the Purchase Order or, if no amount is specified, 20% of the Price. If Silverstream Technologies exercises its rights under this Condition 10.2 it shall not be entitled to exercise any of the rights specified in Condition 10.1

## 11 INVOICES AND PAYMENT

- 11.1 The Price shall be paid in instalments as specified in the Purchase Order against the Supplier's invoices issued in accordance with the Agreement.
- 11.2 Invoices shall be addressed and sent to Silverstream Technologies' Accounts Department by: email to [invoice@SilverstreamTechnologies.com](mailto:invoice@SilverstreamTechnologies.com), with reference to the relevant Purchase Order number or otherwise identifying the Goods and/or Services.
- 11.3 In consideration of the supply of Goods and/or Services by the Supplier in accordance with the Agreement, Silverstream Technologies shall pay each instalment of the Price within 60 days from the end of the month in which a valid invoice for such instalment is received by Silverstream Technologies.
- 11.4 If Silverstream Technologies fails to pay any amount properly due and payable by it under the Agreement (and which amount is not disputed by Silverstream Technologies in good faith), the Supplier shall have the right to charge interest on the overdue amount at its usual rate subject to a maximum rate of 4% per annum above the base rate for the time being of the Bank of England, accruing on a daily basis from the date of receipt by Silverstream Technologies of notice that the amount is overdue and that accordingly interest at the stated rate will apply, up to the date of actual payment.
- 11.5 Silverstream Technologies may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier (whether under the Agreement or otherwise) against any amount payable by Silverstream Technologies to the Supplier under the Agreement.

## 12 TERMINATION

- 12.1 In addition to such rights as it may have in law or under other provisions of the Agreement, either Party may terminate the Agreement immediately if the other Party:
- 12.1.1 commits a material or persistent breach of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of receipt of notice of the breach;
- 12.1.2 is dishonest or fraudulent in relation to the Agreement;
- 12.1.3 has a petition presented, order made or resolution passed for the winding up, liquidation or dissolution of it or if a receiver, receiver and manager, administrator or comparable official is appointed over the whole or a material part of the Party's undertaking, property or assets;

- 12.1.4 suspends or threatens to suspend payment of its debts, is unable to pay its debts as they fall due or ceases to carry on its present business or states or intimates any intention of so doing;
  - 12.1.5 commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - 12.1.6 being an individual, is the subject of a bankruptcy petition or order, or dies or by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation; or
  - 12.1.7 the other Party suffers any analogous event to those set out in Conditions 12.1.3 to 12.1.6 (inclusive) in any other jurisdiction.
- 12.2 Without prejudice to its other rights or remedies, Silverstream Technologies may terminate any Purchase Order and/or the Agreement:
- 12.2.1 in respect of the supply of Services, by giving the Supplier one month's notice; and
  - 12.2.2 in respect of the supply of Goods, with immediate effect by giving notice to the Supplier, in which case Condition 12.3 shall apply.
- 12.3 Upon termination under Condition 12.2.2:
- 12.3.1 Silverstream Technologies shall pay to the Supplier (subject to any set-off in accordance with Condition 11.5) the amount if any by which the value of work in progress in the Goods exceeds the amount then paid by Silverstream Technologies to the Supplier,;
  - 12.3.2 the Supplier grants Silverstream Technologies the right of access to any premises of the Supplier and shall procure the same right of access to any third party's premises to enable Silverstream Technologies to inspect the stage of construction, and to lift and take away (subject to payment in accordance with Condition 12.3.1) all work-in-progress and raw materials at the date of termination, and accordingly, the Supplier waives all its liens and rights (howsoever arising) in connection with such work-in-progress, and raw materials.
- 12.4 For the purposes of Condition 12.3 the value of the work in progress of the Goods is the amount which represents the cost to the Supplier of producing the Goods up to the point of termination including a reasonable amount for overhead but excluding profit or any other costs or losses, together with a fair price for unused raw materials purchased for incorporation into the Goods, but giving reasonable credit for any part of the work in progress or raw materials which can be used by the Supplier for another purpose or any refund obtained on return to their supplier. Any termination of the Agreement will be without prejudice to any other rights or remedies of either Party under the Agreement or at law and will not affect any accrued rights or liabilities of either Party at the date of termination.
- 12.5 The termination of the Agreement for any reason will not affect the coming into force or the continuation in force of any of its provisions which expressly or by implication are intended to come into force or continue in force on or after the termination.

## 13 WARRANTY OF FREEDOM FROM DEFECTS

- 13.1 The Supplier guarantees all Goods and all goods and materials supplied to Silverstream Technologies in the performance of the Services against defects in design, materials and workmanship for a period expiring either (i) 24 months after delivery of the Goods or such other goods or materials (as the case may be), whether separately or incorporated into another product or as part of a package of products or otherwise, by Silverstream Technologies to the End Purchaser, or (ii) 36 months from the date of Delivery, whichever is the later.
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- 13.2 The Supplier shall without delay either replace or repair, at Silverstream Technologies' election, a Guaranteed Defect. Removable parts may be returned to the Supplier for repair or replacement or otherwise the repair will be effected on board the relevant vessel wherever she is situated. All costs arising from and out of the replacement or repair of the Guaranteed Defect shall be for the Supplier's account, including but not limited to transport, customs, dismantling and reinstating and travel and subsistence for the Supplier's personnel.
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- 13.3 Notwithstanding Condition 13.2, if:
- 13.3.1 a Guaranteed Defect is a minor defect, being a replacement or repair with a value of no more than £1,000 (excluding transportation or travel costs), such value to be assessed by Silverstream Technologies (acting reasonably); or
- 13.3.2 immediate repair or replacement is required for safety reasons; or
- 13.3.3 the Supplier fails to repair or replace any Guaranteed Defect within a reasonable time;
- Silverstream Technologies may take such action as it deems appropriate in the circumstances to repair or replace the Guaranteed Defect and will be entitled to recover all the costs incurred in relation thereto without prejudice to any of its other rights.
- 13.4 Silverstream Technologies may also require the Supplier to replace, or inspect and if required repair or modify, any Goods or other goods or materials which are the same as those which have suffered from a Guaranteed Defect notwithstanding that they have not evidenced any defect, and Conditions 13.2 and 13.3 shall apply thereto.

## 14 LIMITATION OF LIABILITY

- 14.1 Subject to Condition 15, neither party shall be liable to the other for loss of business, loss of profits, loss of production, loss of opportunity or other indirect or consequential losses arising as a result of any breach of the Agreement.

## 15 INDEMNITY AND INSURANCE

- 15.1 The Supplier shall indemnify Silverstream Technologies in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by Silverstream Technologies as a result of or in connection with:
- 15.1.1 any claim against Silverstream Technologies by a third party (including the End Purchaser) arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure

or delay in performance of the Agreement by the Supplier, its employees, agents or subcontractors ;

- 15.1.2 any claim made against Silverstream Technologies by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
  - 15.1.3 claims in respect of death, personal injury or damage to property (in each case to the extent due to the act or omission of the Supplier or any of its employees, agents or subcontractors) of any employee, agent or subcontractor of the Supplier whilst at Silverstream Technologies' premises or other places of business;
  - 15.1.4 breach of any warranty given by Silverstream Technologies in relation to the Goods and/or Services (including, without limitation, any warranty given by Silverstream Technologies in respect of any products incorporating the Goods and/or Services) which arises out of, or is connected with, breach of a warranty given by the Supplier to Silverstream Technologies; and
  - 15.1.5 any claim made against Silverstream Technologies for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods and/or receipt, use or supply of the Services.
- 15.2 The Supplier shall maintain in force at its cost, product liability insurance, public liability insurance, employer's liability insurance and, for the supply of Services, professional indemnity insurance. Each policy of insurance shall:
- 15.2.1 be for no less than GBP £3 million per occurrence (or such other amount as may be agreed in writing between the Parties) or any greater amount required by applicable law;
  - 15.2.2 be obtained from insurers regulated by Lloyd's of London or other reputable insurance companies;
  - 15.2.3 include the interest of Silverstream Technologies and the End Purchaser duly noted thereon and a waiver of subrogation in favour of Silverstream Technologies and the End Purchaser.
  - 15.2.4 be evidenced by Certificates of Insurance, copies of which shall be provided to Silverstream Technologies on request.
- 15.3 The provisions of this Condition 15 shall survive the expiry or termination of the Agreement howsoever arising.

## 16 INSPECTION OF RECORDS AND DOCUMENTATION

- 16.1 The Supplier shall maintain complete and accurate records relating to its performance of the Agreement, including the design, engineering and manufacture of any Goods, which shall be kept available for inspection on behalf of Silverstream Technologies on reasonable notice during office hours for a period of 6 years after Delivery.
- 16.2 The Supplier confirms that it is fully aware of the need for timely submission and correctness of all documentation for Goods and Services and that it will be liable to Silverstream Technologies for any damages resulting from delays or errors in relation thereto.

## 17 HEALTH AND SAFETY

- 17.1 The Supplier shall ensure that any of its personnel who work at, or visit, Silverstream Technologies' premises or any premises or vessel of the End Purchaser strictly observe and follow all requirements for contractors and visitors and shall adhere to guidance contained in relevant Health and Safety policies as may be notified to them.

## 18 ANTI-BRIBERY

- 18.1 The Supplier agrees that it will not, in connection with the Agreement, bribe, or attempt to bribe (which shall include, without limitation, any offer of any form of payment, gift or other form of inducement, reward or advantage (whether of mone or anything of value)) Silverstream Technologies, or any of Silverstream Technologies' employees, agents, representatives, affiliates or persons employed by or acting on behalf of Silverstream Technologies, any customers, potential customers, any public nor government officials or employees, public international organisations, political parties, or private individuals or other entities ("Relevant Parties").
- 18.2 The Supplier represents and warrants to Silverstream Technologies that it has not, prior to the date of the Agreement, bribed or attempted to bribe any Relevant Parties in order to secure and/or retain any business for the Supplier or Silverstream Technologies whether in connection with the Agreement or otherwise.
- 18.3 The Supplier acknowledges and agrees that it is familiar with and will abide by the anti-bribery and anti-money laundering laws in all the countries in which it is incorporated or established and in which it does business, including without limitation the UK Bribery Act 2010.
- 18.4 The Supplier agrees that it will not take or knowingly permit any action to be taken that would cause Silverstream Technologies to be in violation of any applicable anti-bribery or anti-money laundering laws.
- 18.5 Without prejudice to the generality of Conditions 18.1 to 18.4 inclusive, the Supplier will establish and at all times maintain and implement such anti-bribery policies and procedures as may be reasonably required to ensure that it prevents bribery or attempted bribery taking place on the Supplier's behalf.
- 18.6 Silverstream Technologies may terminate the Agreement immediately upon notice in the event of a breach of this Condition 18 by the Supplier.
- 18.7 Silverstream Technologies shall not be required to make any payments to the Supplier that might otherwise be due from Silverstream Technologies if such payments are related to a transaction in connection with which the Supplier has breached this Condition 18.

## 19 INTELLECTUAL PROPERTY RIGHTS

- 19.1 All Intellectual Property Rights in any Specification or other information or documentation that either Party develops under or in connection with the Agreement will vest absolutely in the developing Party or such other person(s) as it may direct and the Supplier hereby irrevocably licenses Silverstream Technologies to use the Supplier's Intellectual Property Rights in the Goods and Services for the purposes of designing, constructing and/or fitting out, repairing and maintaining Silverstream Technologies' product for the End Purchaser, with a right to pass (directly or indirectly) a sub-license to the End Purchaser.

- 19.2 Notwithstanding Condition 19.1, all Intellectual Property Rights and title in any drawings, plans or designs for a bespoke design ordered for Silverstream Technologies, shall vest absolutely in Silverstream Technologies on delivery.
- 19.3 The Supplier will not, in breach of Silverstream Technologies' Intellectual Property Rights (or otherwise unlawfully), manufacture, distribute or sell to any third party products which are the same as, or materially similar to, the Goods.
- 19.4 The Supplier shall not use Silverstream Technologies' name or trade marks in any marketing or promotional material, stationery, vehicles or on its website without the express prior written consent of Silverstream Technologies.

## 20 SILVERSTREAM TECHNOLOGIES'S MATERIALS

- 20.1 Any items (including without limitation, templates, samples, drawings, equipment, data and documents showing technical information) supplied by Silverstream Technologies for the purposes of fulfilling the Agreement ("Materials") shall at all times remain the property of Silverstream Technologies, shall be clearly marked as such and stored by the Supplier apart from its own property and shall be returned to Silverstream Technologies upon request.
- 20.2 All the Materials shall be at the sole risk of the Supplier at all times whilst they are in the possession of the Supplier and must be kept securely.
- 20.3 The Supplier may use the Materials for the purposes of the Agreement only and in particular, may not use the Materials for the supply of goods or the provision of services to any other person, including any agent or distributor of Silverstream Technologies or the End Purchaser, either directly or indirectly, without the prior written consent of Silverstream Technologies.

## 21 CONFIDENTIALITY

- 21.1 Both parties acknowledge that, during the term of the Agreement, they may have access to Confidential Information in respect of the other party. Each party shall:
- 21.1.1 use any Confidential Information belonging to the other party solely for the purposes of performing its obligations under the Agreement; and
- 21.1.2 keep the Confidential Information belonging to the other party secret and confidential and in particular not divulge, publish or disclose the same whether in whole or in part however directly or indirectly to any person other than the other party, or in confidence on a need to know basis to employees, agents and/or subcontractors who are subject to confidentiality obligations in respect thereof.
- 21.2 The provisions of this Condition 21 shall survive the expiry or termination of the Agreement howsoever arising.
- 21.3 The Supplier may be required to enter a separate Confidentiality Agreement, in which case, that Confidentiality Agreement shall take precedence over the above provisions of this Condition 21 and shall form an integral part of the Agreement.
- 21.4 The Supplier undertakes that it shall not at any time without Silverstream Technologies' prior written consent use the fact that it has been contracted to supply, or has supplied, the Goods or the Services for any advertising, publicity or business promotion purposes whatsoever.



## 22 DATA PROTECTION

- 22.1 In these Conditions, unless the context otherwise requires, terms defined in the Data Protection Act 1998 shall have the same meaning when used in this Agreement.
- 22.2 The Supplier shall comply with its obligations under Data Protection Law and provide Silverstream Technologies with such cooperation and assistance as Silverstream Technologies may request to enable Silverstream Technologies to fully comply with its obligations under Data Protection Law.;
- 22.3 This Condition 22 shall survive termination of the Agreement.

## 23 FORCE MAJEURE

- 23.1 If either Party is affected by Force Majeure ("the Affected Party") it shall promptly notify the other Party of the nature of the Force Majeure and an estimate of the effects and likely duration thereof.
- 23.2 The Affected Party shall not be deemed to be in breach of the Agreement, or otherwise be liable to the other, as a result of any delay in performance of its obligations to the extent that the delay is due to any Force Majeure of which it has promptly notified the other Party provided that the Affected Party has not defaulted in performing the obligation before the Force Majeure event occurs.
- 23.3 The Affected Party shall use reasonable endeavours to continue to perform the obligation and shall promptly take steps reasonably required by the other Party to avoid or mitigate losses to that other Party arising from the delayed performance.
- 23.4 If the Force Majeure delay claimed by the Affected Party continues for a period in excess of 45 days, notwithstanding any other provision of the Agreement the other Party shall be entitled to terminate the Agreement upon not less than fourteen days' notice to the Affected Party, after which neither Party shall be under any liability to the other Party under the Agreement, except in respect of accrued rights.

## 24 LAW AND ARBITRATION

- 24.1 The Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law
- 24.2 If the Parties are unable to resolve any such dispute within twenty (20) days of one Party notifying the other of its existence, it shall be referred to and finally resolved by arbitration under the London Maritime Arbitrators Association Rules, subject to Condition 24.3. For the purposes of such arbitration: (i) the number of arbitrators shall be one (to be mutually agreed or if not agreed within thirty (30) days of one party first requesting the other to agree a nomination, to be appointed by the President for the time being of the London Maritime Arbitrators Association); (ii) the seat, or legal place, of arbitration shall be London, United Kingdom; and (iii) the language to be used in the arbitral proceedings shall be English.
- 24.3 If the subject matter of the dispute between the Parties arises from the supply of Goods or Services which are the subject of a dispute between Silverstream Technologies and the End Purchaser to which they were supplied (whether separately or incorporated into another product or as part of a package of products or otherwise), the Supplier consents to being



joined as a party to an arbitration in London on the terms of any agreement between Silverstream Technologies and the End Purchaser

- 24.4 Nothing in Condition 24.2 or 24.3 shall be construed as preventing any party from seeking conservatory or similar interim relief from any court of competent jurisdiction.
- 24.5 Any award of the arbitration tribunal shall be made in writing and shall be final and binding on the parties. The Parties undertake to carry out the award without delay. The Parties shall not be deemed to have waived any right to challenge any award on the ground that the arbitration tribunal lacked substitutive jurisdiction and/or the ground of serious irregularity affecting the arbitration tribunal, the proceedings or the award.

## 25 GENERAL

- 25.1 The Agreement contains the entire agreement between the Parties and supersedes all previous agreements and understandings between the Parties with respect to the Agreement.
- 25.2 No employee or agent of Silverstream Technologies has the authority to vary these Conditions, which may only be varied in writing signed by a director of Silverstream Technologies. Silverstream Technologies shall be entitled to rely on the execution by any individual purporting to bind the Supplier to a Purchase Order or any variation of these Conditions, unless otherwise notified in advance by a director of the Supplier.
- 25.3 Except as set out elsewhere in the Agreement, a person who is not a party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 25.4 The Supplier shall not transfer, assign, sub-contract or sublet any part of the Agreement or any rights or obligations hereunder without the prior written consent of Silverstream Technologies.
- 25.5 The Supplier shall not be entitled to create or do anything which will result in the creation of any lien, encumbrance, right of retention or any other kind of security over the Goods or in respect of the Services and will ensure that a similar condition is included in all contracts with its sub-contractors.
- 25.6 All notices under the Agreement shall be given in writing in the English language and sent by post or email addressed to the Parties, in the case of Silverstream Technologies, at the Silverstream Technologies Address and, in the case of the Supplier, at its address set out in the Purchase Order, or to such other address notified to the other Party. Day to day communications which do not constitute formal notice under the Agreement may also be given by email.
- 25.7 A waiver of any right under the Agreement is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. Failure by Silverstream Technologies to exercise any of its rights under the Agreement or by law shall in no way constitute a waiver of these rights, nor shall such failure excuse the Supplier from any of its obligations under the Agreement.
- 25.8 Unless otherwise specified any rights arising under the Agreement are cumulative and do not exclude rights provided by law.
- 25.9 If any provision (or part of a provision) of the Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, the Agreement shall be

varied so as to delete such provision (or part) and the remaining provisions of the Agreement shall continue to be valid and enforceable.

25.10 Neither of the Parties shall, during the continuance of the Agreement or for a period of one (1) year thereafter, procure or induce or attempt to procure or induce (either on its own behalf or on behalf of any other person, firm, company or group) any senior employee, officer or other personnel of the other Party who has been directly involved in the Agreement to leave the employment of that Party.