

## STANDARD CONDITIONS FOR THE SUPPLY OF GOODS & SERVICES

ELIMPUS LIMITED (“ELIMPUS”) shall provide Goods & Services to the CUSTOMER upon the terms and subject to the conditions of this Agreement. ELIMPUS will not be bound by any contrary, different or additional terms or conditions contained or referred to in CUSTOMER order form or other documents or correspondence; nor will ELIMPUS agree to any addition, alteration or substitution of these conditions unless they are expressly accepted by ELIMPUS in writing.

### 1. DEFINITIONS

“CUSTOMER” shall mean the party identified as such in the applicable Service Schedule and/or Quotation.

“Goods” means any equipment, PCs, machinery, tooling, apparatus, materials, products, goods and articles of any kind supplied by ELIMPUS to CUSTOMER in connection with the provision of the Services;

“Services” shall mean work performed by ELIMPUS for CUSTOMER pursuant to a Service Schedule and/or Quotation agreed to by the parties in writing (including where appropriate the supply of any Goods).

“Service Schedule” shall mean ELIMPUS’s standard form for ordering Services or any other written document or letter which references these Terms and Conditions and which specifies the Services and applicable Charges.

“Quotation” shall mean a sales quote, proposal or offer to supply Goods and/or Services as detailed therein and under these Terms and Conditions and which provides details, quantities, specifications and applicable prices. Quotation shall also include, where relevant; scope, timescales of delivery of Goods or performance of Services; validity/acceptance period and additional terms and conditions as is offered by ELIMPUS to CUSTOMER.

“Charges” shall mean Fees and Expenses as further defined in Clauses 3.

“Intellectual Property Rights” means any patent, copyright, design right, trade mark, confidential information, “know how” and all similar rights whether or not registered or capable of registration arising from the performance of the Services or the supply of the Goods.

“Price” means the price specified in the Quotation and/or Service Schedule excluding Value Added Tax and any other applicable taxes or duties.

### 2. ELIMPUS OBLIGATIONS

#### 2.1 Scope of Supply

The scope of the Supply of Goods & Services will be set out in the Quotation and/or Services Schedule and ELIMPUS will perform the Supply of these Goods and Services on a Fixed Price basis unless expressly stated otherwise. In consideration for the payment of prices quoted in the Quotation or Service Schedule, ELIMPUS will perform the supply of the Goods and Services in accordance with a written and mutually agreed work statement detailed or referenced in the Quotation or Service Schedule. The Quotation and/or Service Schedule constitute the complete and exclusive definition and description of the Goods and Services to be delivered or supplied by ELIMPUS.

#### 2.2 Duration

This Agreement will commence on receipt of CUSTOMER order and shall remain in force until the Goods and Services have been supplied to CUSTOMER as defined in the Quotation or Service Schedule unless terminated early under the terms of this Agreement or by mutual consent.

Elimpus will deliver all Goods and Services with all reasonable skill care and diligence. ELIMPUS will use all reasonable endeavours to provide the Services within any timescale indicated in the Quotation and/or Services Schedule.

#### 2.3 Delivery of Services

ELIMPUS may perform the Services ourselves or where at our discretion ELIMPUS consider it necessary or desirable ELIMPUS may instruct third parties to carry out the whole or any part of the Services on CUSTOMER’s behalf.

#### 2.4 Delivery of Goods

Where ELIMPUS has agreed to supply Goods the description of those Goods will be set out in the Quotation. Unless the Quotation provides otherwise, no other descriptive material or specification whether written or oral contained in any correspondence or statement or in promotional or sales literature shall form any part of this Agreement.

#### 2.5 Acceptance

CUSTOMER’s acceptance of the Goods will be deemed to be given on the date of delivery. CUSTOMER’s acceptance of the Services will be deemed to be given on the date of supply of same by ELIMPUS. ELIMPUS may suspend or cease performance of the Services or delivery of Goods at our discretion if at any time CUSTOMER is in breach of the obligations under these conditions; or ELIMPUS has reason to believe that CUSTOMER may not be able to pay debts as they fall due; or there is any change in CUSTOMER ownership or control which for whatever reason ELIMPUS consider makes it unsuitable or undesirable for ELIMPUS to continue to work for CUSTOMER and in any such case ELIMPUS shall notify CUSTOMER in writing and on such notification ELIMPUS shall have no further liability or obligation to CUSTOMER.

### 3. PRICE AND PAYMENT TERMS

3.1 Unless otherwise expressly specified in the applicable Service Schedule or Quotation: (a) ELIMPUS shall invoice CUSTOMER for the full amount due for the Goods and Services; (b) invoices shall be payable thirty (30) days from the date of the invoice; and (c) invoices shall be deemed overdue if they remain unpaid thereafter. ELIMPUS reserves the right to charge interest on such overdue sums on a day to day basis from the original due date until paid in full at a rate of 4% above the Bank of Scotland base rate applicable from time to time.

3.2 If any monies are not paid by the due date ELIMPUS shall be entitled to stop any work which ELIMPUS are doing on behalf of CUSTOMER in relation to the provision of the Services and to suspend delivery of any Goods which may be due. ELIMPUS may also at our discretion take any other action which is open to us as at law as ELIMPUS may think fit.

3.3 All prices quoted to CUSTOMER are based on information available to ELIMPUS at the time of quotation. Unless expressly stated, the prices quoted do not include the cost of carriage, packing, customs duties, insurance or any other similar item. In the event that any third party providing services to ELIMPUS which are part of the Services specified in the quotation shall raise its charges to ELIMPUS, we reserve the right to pass on those increased charges to CUSTOMER in addition to the sum quoted in the quotation.

3.4 In the event that performance of the Services requires ELIMPUS employees to travel within the United Kingdom

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or outside the United Kingdom, the cost of all travel, accommodation and subsistence incurred by ELIMPUS employees or any third party contractor in the performance of the Services together with the cost of obtaining all necessary entry residence work and exit documents shall be paid by CUSTOMER in addition to the Price.

3.5 ELIMPUS reserve the right to raise an additional charge on CUSTOMER in the event that the assumptions specified in the quotations prove to be incorrect for whatever reason and in particular ELIMPUS reserve the right to increase the Price if work has to be performed outside normal working hours or if the nature, extent or scope of the Services is altered in any way during the course of ELIMPUS providing the Services. ELIMPUS also reserve the right to increase the Price if delays are caused or if ELIMPUS have to carry out extra work as a result of anything which CUSTOMER may do or fail to do.

### 4. CUSTOMER OBLIGATIONS

4.1 CUSTOMER must promptly provide ELIMPUS with all information and assistance that ELIMPUS may reasonably require in connection with the performance of the Services.

4.2 Where the Services are to be provided at CUSTOMER premises or elsewhere other than at ELIMPUS premises; CUSTOMER is to make available free of charge all gas, electricity, heating and water required by ELIMPUS together with such facilities for the use of ELIMPUS employees and any third party contractors as shall be required in order to enable ELIMPUS to comply with relevant legislation concerning their health, safety and well-being and to perform the Services.

4.3 CUSTOMER is to carry out any preparatory works specified in our Quotation in good time to enable the Services to be supplied promptly and effectively.

4.4 CUSTOMER is to disclose to ELIMPUS the presence of any known hazardous machinery or substance in any place where ELIMPUS are to provide the Services and to give us full information as to the nature of any such hazard. If CUSTOMER does not do so ELIMPUS may refuse to perform or to complete the Services without being under any further obligation to CUSTOMER.

4.5 CUSTOMER is to obtain any necessary consent, permissions, permits or access required from any local, national, private or governmental authority to enable the Services to be carried out by ELIMPUS.

### 5. INTELLECTUAL PROPERTY RIGHTS

5.1 The Intellectual Property Rights shall remain the property of ELIMPUS unless stated otherwise in the Quotation or Service Schedule. Provided that CUSTOMER complies with all obligations under this Agreement, ELIMPUS grant to CUSTOMER a personal non-exclusive license to use the Intellectual Property Rights in the normal course of CUSTOMER's business but not further or otherwise. CUSTOMER may not grant any sub-license nor transfer the benefit of the license hereby granted without the prior written consent of ELIMPUS. For the avoidance of doubt, CUSTOMER may not use the ELIMPUS Intellectual Property Rights to provide business services, whether revenue generating or otherwise, to any other third party, without the prior written consent of ELIMPUS.

5.2 Copyright in all drawings, reports, calculations and other documents provided by ELIMPUS in connection with the Services belong to ELIMPUS. CUSTOMER may not

make copies of the same or any part of them without the prior written agreement of ELIMPUS.

5.3 Where any software (including without limitation any bespoke software or hosted software) is provided by ELIMPUS under the terms of this agreement, the copyright in such software shall remain the property of ELIMPUS.

5.4 If the Quotation expressly states that Intellectual Property Rights in connection with the Supply of Goods & Services or any part thereof are to become the property of CUSTOMER, CUSTOMER will grant ELIMPUS a nonexclusive royalty free license to use the same for all purposes connected with ELIMPUS business without limit of time and in particular to use the Intellectual Property Rights and any development thereof which ELIMPUS may undertake in connection with Goods and Services supplied by ELIMPUS to our other customers.

5.5 Unless ELIMPUS have told CUSTOMER otherwise to the best of our knowledge and belief; neither the supply of the Goods nor the supply of the Services to CUSTOMER will result in the infringement of any third party's Intellectual Property Rights.

5.6 CUSTOMER warrants that any design or instruction furnished or given by CUSTOMER to ELIMPUS shall not be such as will cause ELIMPUS to infringe any intellectual property rights.

### 6. LIMITATION OF LIABILITY

The Supply of Goods and Services have been agreed by ELIMPUS with CUSTOMER in the context of information provided by CUSTOMER as to CUSTOMER's particular needs and requirements. The Goods and Services have been prepared and priced accordingly. Therefore:

6.1 ELIMPUS shall have no liability to CUSTOMER for any delay, loss, damage, costs, expenses or other claims for compensation arising from any information or instructions supplied by CUSTOMER which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or no arrival, or any other fault of CUSTOMER;

6.2 except in respect of death or personal injury caused by ELIMPUS's negligence, or as expressly agreed in writing between the parties, ELIMPUS shall not be liable to CUSTOMER by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, other than under the express terms of this Agreement, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of ELIMPUS, its servants or agents or otherwise) which arises out of or in connection with the provision of the Goods and Services or their use by CUSTOMER;

6.3 except in respect of death or personal injury caused by ELIMPUS's negligence, or as expressly agreed in writing between the parties, the entire liability of ELIMPUS under or in connection with this Agreement shall not exceed the amount of ELIMPUS's total anticipated charges for providing the Goods and Services as detailed in the Quotation or Service Schedule to this Agreement;

6.4 In no event will ELIMPUS be liable for the cost of procurement of substitute Goods and Services by CUSTOMER or any other person or entity.

6.5 In so far as ELIMPUS are able to do so and at CUSTOMER's expense, ELIMPUS will assign to CUSTOMER the benefit of any warranties and conditions

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relating to quality, suitability, fitness for purpose or quiet possession contained in any contract which ELIMPUS may have with any third party for the supply of any component included within the Goods and Services.

### 7. TERM AND TERMINATION

#### 7.1 Term

This Agreement shall commence at the start of CUSTOMER's written order for the supply of the Goods and Services that are specified in the Quotation or Service Schedule and shall remain in effect until completion of the Services and supply of the Goods up to and including the end of the warranty period.

#### 7.2 Termination

Any request by CUSTOMER to terminate or cancel any part of the supply of Goods and Services under this agreement following acceptance, unless otherwise agreed in writing, does not relieve CUSTOMER of its obligation to pay all charges as specified in the Quotation or Service Schedule. In addition, ELIMPUS reserves the right to charge CUSTOMER a termination fee to compensate for any costs incurred by ELIMPUS in preparation or part supply of the Goods and Services as ordered by CUSTOMER. Termination of the agreement for whatever reason shall not affect any rights or liabilities which have already accrued at the time of termination.

### 8. WARRANTY

#### 8.1 Defects

ELIMPUS warrants to CUSTOMER that Goods or Services provided to CUSTOMER under this agreement will be free from defects in design, materials and workmanship. Goods will be of new manufacture, but may include used parts and/or components that match or exceed the performance of new parts and/or components. Provided that the defect arises solely as a result of faulty design, materials or workmanship, ELIMPUS will make every attempt to rectify the defect free of charge to CUSTOMER. If ELIMPUS is unable to rectify the defect, ELIMPUS will at no cost to CUSTOMER, attempt to rectify the defect with replacement parts or components.

#### 8.2 Warranty Period

Warranties begin on the date of delivery, or on the date of installation if installed by ELIMPUS or ELIMPUS instructed third parties. If CUSTOMER schedules or delays such installation by ELIMPUS more than thirty (30) days after delivery, CUSTOMER's warranty period will begin on the 31<sup>st</sup> day after delivery. The warranty period will expire twelve (12) months after commencement of the warranty period.

#### 8.3 Exclusions

ELIMPUS is not obligated to provide warranty services or Support for any claims resulting from:

- a) Improper site preparation, or site or environmental conditions that do not conform to ELIMPUS's site specifications;
- b) CUSTOMER's non-compliance with the operations specifications or manual;
- c) Improper or inadequate maintenance or calibration;
- d) CUSTOMER or third-party media, software, interfacing, supplies, or other products;
- e) Modifications not performed or authorised by ELIMPUS;
- f) Virus, infection, worm or similar malicious code not introduced by ELIMPUS; or

- g) Abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by CUSTOMER, or other causes beyond ELIMPUS's control.

#### 8.4 Transfer

Warranties are transferable to another party for the remainder of the warranty period subject to written notification to and acceptance by ELIMPUS.

### 9. CUSTOMER INDEMNITY

9.1 ELIMPUS require CUSTOMER to indemnify ELIMPUS from and against all claims, actions, demands, proceedings, damages, costs, charges and expenses arising out of or in connection with the supply of the Goods and Services to CUSTOMER:-

(a) To the extent that any such claim etc shall exceed the limit of liability specified in condition 6.3 above.

(b) Where any such claim or loss arises as a result of any breach on CUSTOMER's part of any of CUSTOMER's obligations under these conditions.

(c) In any event where such claims or actions are brought or threatened against ELIMPUS by a third party as a result of CUSTOMER's use of the Goods or the Services in the manufacture, supply or distribution of any other goods or in the provision of a service to a third party.

9.2 Neither ELIMPUS nor CUSTOMER shall be liable for any loss or damage arising from any occurrence unless a claim is formally notified in writing before the expiry of two years from the date of the acceptance of the ELIMPUS Quotation or Service Schedule.

### 10. GENERAL

#### 10.1 Non-disclosure

The parties may provide to one another information that is confidential ("Confidential Information"). Confidential Information shall be limited to information clearly identified as confidential. Confidential Information will include any technical or commercial information which may have been acquired from the other as a result of discussions, negotiations and other communications between ELIMPUS and CUSTOMER relating to the provision of the Goods and Services. Confidential Information shall not include information which: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; (d) is independently developed by the other party; or (e) is disclosed by operation of law. The parties agree to hold each other's Confidential Information in confidence while the Services are being performed and for a period of three years thereafter.

#### 10.2 Relationship between the Parties

ELIMPUS is an independent contractor; nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes. Each party will maintain appropriate Employer's Liability, Public Liability and other necessary insurance.

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### 10.3 Time and Force Majeure

10.3.1 Unless expressly so stipulated by CUSTOMER and agreed in writing by ELIMPUS, time for performance of the Services shall not be of the essence.

10.3.2 ELIMPUS will not be in any event responsible for any delay in or failure to perform the Services or to supply the Goods which is caused by factors beyond ELIMPUS's reasonable control which shall include but not be limited to acts of God, acts of governmental or any other lawful authority, strike, war, riot, civil commotion, flood, fire, explosion, epidemic, trade embargo or any other acts or omissions on the part of any third party or sub-contractor or any failure of electricity or other fuel or equipment.

### 10.4 Retention of Title and Risk

10.4.1 Where Goods are to be supplied to CUSTOMER they will remain ELIMPUS property until CUSTOMER has paid for both Goods and Services in full.

10.4.2 Whilst the Goods remain in ELIMPUS ownership, CUSTOMER may not sell or permit any lien to be created over them and CUSTOMER shall take proper care of the Goods and keep them separate from CUSTOMER's own goods and clearly identified as belonging to ELIMPUS.

10.4.3 The Goods shall be at CUSTOMER's risk as from the time they leave ELIMPUS premises and whether or not delivered to CUSTOMER or to any agent on CUSTOMER's behalf.

### 10.5 Reliance on Skill and Judgement

CUSTOMER acknowledge reliance on own skill and judgement in determining the suitability of the Goods and the Services for any particular purpose. CUSTOMER is alone responsible for ensuring that any performance requirement indicated in the Quotation is sufficient and suitable for CUSTOMER's purpose save in so far as ELIMPUS has expressly agreed in writing that CUSTOMER may rely on ELIMPUS advice.

### 10.6 Amendments

Neither this Agreement nor a Quotation nor a Service Schedule may be modified or amended except in writing signed by a duly authorised representative of each party.

### 10.7 Governing Law

This Agreement and all matters arising out of or relating to this Agreement shall be governed by and interpreted in accordance with Scots law and shall be subject to the exclusive jurisdiction of the Scottish Courts.

### 10.8 Assignment and Entire Agreement

10.8.1 CUSTOMER may not assign this Agreement in whole or in part without the prior written consent of ELIMPUS.

10.8.2 This Agreement including any Quotations, Service Schedules and addenda constitutes the complete agreement between the parties in relation to the Supply of Goods and Services and supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the Supply of Goods and Services.

### 10.9 Safety

ELIMPUS places the safety of its personnel and client personnel at the top of our priorities. ELIMPUS reserves the right to identify to the client any unsafe practice which may impinge upon its personnel and performance of the services. In the event of any dispute over safe working ELIMPUS reserves the right to suspend work – without penalty until such time as the issue is resolved to the satisfaction of ELIMPUS.

### 10.10 Environment

Elimpus is committed to a positive and responsible course of action with regard to those aspects of the business which impact upon the environment. It seeks always to act in accordance with good practice, preserving and, where possible, enhancing the quality of the environment. In performing services for the client, ELIMPUS reserves the right to identify to the client any practice which may have significant impact on the environment and to make suitable recommendations as to how this impact can be reduced.