

## AGREED TERMS

### 1 INTERPRETATION

1.1 In these Conditions, the following definitions and rules of interpretation apply:

1.1.1 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

1.1.2 "**Cartridge**" means the disposable cartridge that collects the fingerprint sample for screening purposes.

1.1.3 "**Conditions**" means these terms and conditions as amended from time to time in accordance with clause 14.10.

1.1.4 "**Contract**" means the contract between the Supplier and the Customer for the supply of Goods in accordance with these Conditions.

1.1.5 "**Customer**" means the person or firm who purchases the Goods from the Supplier.

1.1.6 "**Deliverables**" means the deliverables set out in the Order.

1.1.7 "**Goods**" means the Cartridges and Reader (or any part of them) set out in the Order.

1.1.8 "**Intellectual Property Rights**" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

1.1.9 "**Instructions for Use**" means those instructions for the use of the Goods, including any relevant plans or drawings, environmental conditions for use, or permitted uses of the Goods as updated from time to time, and which Supplier shall provide to the Customer both upon delivery of the Goods and via its website.

- 1.1.10 "**Order**" means the Customer's order for the supply of Goods comprising a formal written purchase order from the Customer that has been accepted in writing by the Supplier.
- 1.1.11 "**Reader**" means the device into which the Cartridge is inserted in order to carry out the screening.
- 1.1.12 "**Supplier**" means Intelligent Fingerprinting Limited registered in England and Wales with company number 06409298.
- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a party includes its successors or permitted assigns.
- 1.4 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.5 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.6 A reference to **writing** or **written** includes faxes and e-mails.

## **2 BASIS OF CONTRACT**

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence .
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Unless otherwise stated, any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

### **3 GOODS**

3.1 The Goods are described in the Instructions for Use.

3.2 The Supplier reserves the right to amend the Instructions for Use if required by any applicable statutory or regulatory requirements.

### **4 DELIVERY OF GOODS**

4.1 The Supplier shall deliver the Goods at any time after the Supplier notifies the Customer that the Goods are ready.

4.2 Good shall be delivered EXW (ex-works) Supplier's premises (as defined by the Incoterms 2010) ("**Delivery**"). The Supplier shall, if requested by the Customer and at the Customers risk and cost, arrange for the transport of the Goods for the Supplier's premises to the Customer's location.

4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay or failure in delivery of the Goods that is caused by the Customer's failure to provide the Supplier with adequate delivery instructions or any other supply instructions

### **5 QUALITY OF GOODS**

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery ("**Warranty Period**"), the Readers shall conform in all material respects with the applicable Instructions for Use.

5.2 Subject to clause 5.3, if:

- 5.2.1 the Customer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Readers do not comply with the warranty set out in clause 5.1;
- 5.2.2 the Supplier is given a reasonable opportunity of examining such Readers; and
- 5.2.3 the Customer (if asked to do so by the Supplier) returns such Readers to the Supplier's place of business at the Customer's cost,  
  
the Supplier shall, at its option, repair or replace the defective Readers, or refund the price of the defective Readers in full.
- 5.3 The Supplier shall not be liable for the Readers' failure to comply with the warranty in clause 5.1 if:
  - 5.3.1 the Customer makes any further use of such Readers after giving a notice in accordance with clause 5.2;
  - 5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions, including those set out in the applicable Instructions for Use, as to the storage, installation, commissioning, use or maintenance of the Readers;
  - 5.3.3 the defect arises because the Customer used the Reader with a Cartridge that has not been authorised by Supplier;
  - 5.3.4 the Customer alters or repairs such Readers without the written consent of the Supplier;
  - 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
  - 5.3.6 the Readers differ from the Instructions for Use as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Readers' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Conditions shall apply to any repaired or replacement Readers supplied by the Supplier under clause 5.2.

5.6 The Supplier warrants that provided Customer uses the Cartridge prior to the expiry date stated on the Cartridge, the Cartridge shall conform in all material respects with the applicable Instructions for Use.

5.7 The Supplier specifically excludes all other conditions, warranties, representation or other terms relating to this Agreement whether express or implied by statute or otherwise including those of satisfactory quality, fitness for a particular or any purpose, or ability to achieve any particular result.

## **6 TITLE AND RISK**

6.1 The risk in the Goods shall pass to the Customer upon Delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cleared funds) for the Goods.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

6.3.1 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

6.3.2 notify the Supplier immediately if it becomes subject to any of the events listed in clause 12.1.2; and

6.3.3 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 12.1.2, then, without limiting any other right or remedy the Supplier may have:

6.4.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and

6.4.2 the Supplier may at any time:

6.4.2.1 require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and

6.4.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## **7 CUSTOMER'S OBLIGATIONS AND WARRANTIES**

7.1 The Customer shall:

7.1.1 ensure that the terms of the Order are complete and accurate;

7.1.2 obtain and maintain all necessary licences, permissions and consents which may be required for the Goods before using the Goods; and

7.1.3 keep and maintain all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

7.2 The Customer warrants that it will:

7.2.1 comply with all laws and regulations applicable to the collection and screening of all information and samples associated with the Goods including obtaining any relevant consents;

7.2.2 not use the Goods other than for the permitted purpose as set out in the Instructions for Use; and

7.2.3 notify Supplier immediately upon becoming aware of any changes to laws, regulations, standards, guidance or recommendations that require a change to the Goods and/or Instructions for Use.

## **8 CHARGES AND PAYMENT**

8.1 Unless otherwise agreed, the price for the Goods shall be the Supplier's list price, as amended from time to time, and shall be set out in the Order. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods which shall be invoiced to the Customer.

8.2 The Supplier reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

8.2.1 any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

- 8.2.2 any request by the Customer to change the delivery date(s), quantities or types of the Goods ordered; or
- 8.2.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.
- 8.3 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of Delivery.
- 8.4 The Customer shall pay each invoice submitted by the Supplier within 30 days of the date of the invoice.
- 8.5 The Supplier reserves the right to charge interest at an annual rate of 4% above the base rate of Barclays Bank plc, calculated on a daily basis in respect of any sum which is due and unpaid, that interest to run from the date on which the sum is due and payable until receipt by the Customer of the full amount.
- 8.6 All sums payable under the Contract are payable without withholding or set-off on account of disputes, counterclaims or for any other reason whatsoever and are exclusive of VAT or any other applicable sales tax, which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

## **9 INTELLECTUAL PROPERTY RIGHTS**

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Goods shall be owned by the Supplier.
- 9.2 The Customer shall not reverse engineer, disassemble or decompile the Goods (except to the extent that such restriction on disassembly, decompiling or reverse engineering is prohibited by law and then the Customer shall provide the Supplier with prompt written notice prior to any such action).
- 9.3 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Goods, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 9.4 All Supplier Materials are the exclusive property of the Supplier.

## **10 CONFIDENTIALITY**

10.1 A party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 10 shall survive termination of the Contract.

## **11 LIMITATION OF LIABILITY**

11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; (b) fraud or fraudulent misrepresentation; or (c) any other liability that cannot lawfully be excluded or limited.

11.2 Subject to clause 11.1 the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of business, depletion of goodwill or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss or corruption or data or information or any indirect or consequential loss arising under or in connection with the Contract.

11.3 The Supplier's aggregate liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equivalent to the fees paid by the Customer to the Supplier in the 12 months preceding the claim.

11.4 **The Customer acknowledges that no screening test is 100% accurate and consequently, the Supplier excludes all liability for the inaccuracy of**



**results from the Customer's use of the Goods to the fullest extent permitted by law.**

11.5 This clause 11 shall survive termination of the Contract.

## **12 TERMINATION**

12.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

12.1.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;

12.1.2 the other party has a receiver, administrative receiver or similar officer appointed over it or any of its undertaking or assets or passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction where the resulting entity shall assume all of its liabilities ) or a court of competent jurisdiction makes an order to that effect or if the other party becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on its business or if any substantially similar event takes place under the laws of any jurisdiction.

12.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

12.3 Without limiting its other rights or remedies, the Supplier may suspend all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 12.1.2, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

12.4 On termination of the Contract for any reason:

12.4.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but

for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

12.4.2 the Customer shall return all of the Supplier Materials which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

12.4.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

12.4.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

### **13 FORCE MAJEURE**

13.1 For the purposes of this Contract, "**Force Majeure Event**" means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

13.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

13.3 If the Force Majeure Event prevents the Supplier from providing any of the Goods for more than 4 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

### **14 GENERAL**

14.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

- 14.2 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 14.3 Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.
- 14.4 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 14.5 The provisions of clauses 14.3 and 14.4 shall not apply to the service of any proceedings or other documents in any legal action
- 14.6 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 14.7 A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.8 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party

the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

- 14.9 A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 14.10 Any variation of the Contract shall be in writing and signed by or on behalf of the parties.
- 14.11 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 14.12 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).