

# WAVEFRONT SYSTEMS LIMITED

## TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND SERVICES

### 1. DEFINITIONS & INTERPRETATIONS

**1.1 Affiliate** of Wavefront or the Supplier means, respectively, any and all holding companies of that company and all direct or indirect subsidiaries of such holding companies and “holding company” and “subsidiary” shall have the meanings ascribed to them in section 1159 of the Companies Act 2006;

**Agreement** means collectively these Terms and Conditions, the Order, any Special Terms and Conditions, annexures, appendices and/or attachments identified as part of the Agreement;

**Background IP** means IP brought by either Party for use under an Order which is owned by or licensed to a Party before the date of issue of the Order, or otherwise developed or acquired by a Party other than through participation in the Order.

**Covelya Group** means Covelya Group Ltd and its Affiliates which include Wavefront,

**Force Majeure** means as defined in Clause 24 of these terms and conditions;

**Foreground IP** means any IP that arises or is obtained or developed by a Party, or by a contractor on behalf of a Party, specifically in the course of or in connection with the performance of an Order.

**Goods** mean all products and materials, including those installed as part of the Services, that are sold by Supplier to Wavefront under this Agreement, as described under the Order;

**IP or Intellectual Property** means all intellectual property rights, patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**Licensor** means any person, firm, company or partnership contracted by Wavefront or Supplier to licence any Intellectual Property for the purposes of supplying the Goods and/or performing the Services under an Order;

**Order** means an order for products and/or Services issued by Wavefront in accordance with these terms and conditions, including all manuals, user guides, certifications, and all other documentation required for complete testing and proper use of the Goods;

**Party** means WAVEFRONT or SUPPLIER, as applicable;

**Services** mean the Services and work required to be performed by Supplier under this Agreement, as described under the Order;

**Wavefront** means Wavefront Systems Limited, a company incorporated and registered in England and Wales with company number 05032241 whose registered office is at Unit 5b Coldharbour Business, Park, Sherborne, Dorset, DT9 4JW;

**Specifications** mean all documents, plans, drawings, information, designs, data, instructions, discs, tooling or other information relating to the Goods or Services;

**Supplier** means the company engaged in supply of the GOODS or SERVICE.

**1.2 PRIORITY:** In the event that there is any ambiguity or inconsistency in or between the documents comprising this Agreement, the priority of the documents shall be determined in accordance with the following order of precedence:

- a. any Special Terms and Conditions;
- b. the Purchase Order; and
- c. these Terms and Conditions.

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### 2. ACCEPTANCE

- 2.1 Any Order shall constitute an offer by Wavefront and shall lapse unless unconditionally accepted by the Supplier within 10 working days of receipt of the Order or the Supplier doing any act consistent with fulfilling the Order. Acceptance of any Order is subject to these terms and conditions which shall apply to the exclusion of the Supplier's or any other terms and conditions.

Subject to Clause 6, no waiver, modification or addition to these terms or conditions (including as to price) shall be valid unless in writing and agreed by the parties in advance.

### 3. PRICES

- 3.1 The price is as stated by Wavefront in the Order. No increase in the price may be made by the Supplier without the prior written consent of Wavefront in accordance with these terms and conditions.
- 3.2 Unless otherwise specified, the price includes all charges for the Goods or Services, the Specifications, packing, storage and transportation to the delivery address specified in the Order. Any additional charges shall be borne by the Supplier. The Supplier shall be responsible for obtaining any export or import licences.
- 3.3 The price includes all taxes and duties in respect of exportation and importation of the Goods except VAT where the Supplier is required by law to collect VAT from Wavefront. VAT, if any, shall be separately stated in the Supplier's invoice and paid by Wavefront subject to receipt of a valid VAT invoice from the Supplier unless an exemption is available.

### 4. DELIVERY

- 4.1 Time is of the essence in this Order and substitutions will not be accepted.
- 4.2 Orders shall be delivered to the delivery location specified by Wavefront in the Order during Wavefront's normal business hours, or as instructed by Wavefront. Delivery of the Goods shall be completed on the completion of unloading the Goods at the delivery location
- 4.3 Goods shall be properly packed and secured in such manner to enable them to reach their destination in good condition. Each delivery of Goods should be accompanied by a delivery note which shows that the Goods are for the attention of Wavefront, the date of the Order, the Order number the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.4 The entire Order must be delivered by the date requested, but it may not be delivered more than one week in advance of the time(s) specified without Wavefront's prior written approval.
- 4.5 If the Supplier fails to meet the delivery schedule, Wavefront, without limiting any other rights or remedies it may have including as set out in clause 11, may:
- 4.5.1 direct an expedited form or route of delivery and any excess costs incurred as a result thereof will be borne by the Supplier; or
  - 4.5.2 treat the Agreement as discharged by the Supplier's breach.
- 4.6 If the Goods or Services are delivered or performed by instalments, the Order will be treated as a single Order and shall not be severable. Without prejudice to the foregoing when more than one delivery is made against any Order, the invoice and papers accompanying the last delivery must indicate that it is the final instalment.
- 4.7 Wavefront is not obliged to accept instalments, untimely, excess or under deliveries, and such deliveries in whole or in part may, at Wavefront's option, be returned to the Supplier, or held for disposition by the Supplier at the Supplier's expense and risk. Wavefront will not be liable for the Supplier's commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Wavefront's delivery schedule.

### 5. RISK & TITLE

- 5.1 Risk shall pass once the Goods have been unloaded upon delivery to the delivery location specified in the Order.
- 5.2 Subject to the following provisions:-
- 5.2.1 each Order as it is constructed together with its component parts and equipment so far as incorporated therein; and
  - 5.2.2 all materials and other items whatsoever which the Supplier shall acquire or allocate for incorporation in any Order

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shall vest in and become the absolute property of Wavefront, as from the time the construction begins or the materials or items are so acquired or allocated and are in the possession of the Supplier for the sole purposes of completing the Order and delivering it when completed to Wavefront, and shall not be within the ownership, control or disposition of the Supplier.

- 5.3 Neither the Supplier nor any other person shall have a lien on any Goods, materials or things which have vested in Wavefront under Clause 5.2 for any sum due to them and the Supplier shall take all such steps as may be reasonably necessary to ensure that the title of Wavefront and the exclusion of any such lien, are brought to the notice of all sub-contractors and other persons dealing with any such Goods, materials or things.
- 5.4 Without prejudice to the above, the Supplier shall ensure that as from the time when the construction begins, or as soon thereafter as is practicable and that as from the time when any such materials or things are so acquired, or allocated, a mark shall be placed thereon where possible, or where this is not possible, such a notice shall be displayed and record made in the books of the Supplier as may be necessary for the purpose of ensuring that all such Goods, materials or things as aforesaid are readily identifiable as being the property of Wavefront and if any direction is given by Wavefront to the Supplier as to the steps to be taken to ensure that any such Goods, materials or things shall be readily identifiable as being the property of Wavefront, the Supplier shall comply with that direction.
- 5.5 In the event of the rejection of any Goods or of any materials or things, the Goods, materials or things so rejected shall forthwith re-vest in the Supplier.
- 5.6 Without prejudice to any other rights it may have, any payment made by Wavefront in respect of the Goods, materials or things which re-vest in the Supplier under Clause 5.5 shall be recoverable from the Supplier.

### 6. MODIFICATION OF ORDER

- 6.1 Wavefront may modify any Order in all or in part at any time prior to delivery of the Order by notice in writing. If such modification affects the price, delivery schedule or other performance requirement, the Supplier may make a written claim for an equitable adjustment within five (5) days after receipt of such notification of change, and only in that event will an adjustment be made by Wavefront to the price, delivery schedule and/or other performance requirement (which shall be reasonable in the circumstances) and this shall be the Supplier's sole remedy in respect thereof.
- 6.2 The Supplier shall notify Wavefront in writing in advance of any and all (a) changes to the Goods and/or Services, their Specifications and/or composition; (b) process changes (c) plant and/or equipment/tooling changes or moves; (d) transfer of any work hereunder to another site; and /or sub-supplier changes; and no such change shall occur until Sonardyne has had the opportunity to determine the impact of such change on the Goods and/or Services and has approved such changes in writing. The Supplier shall be responsible for submitting proper documentation regarding any changes.
- 6.3 Notwithstanding the foregoing under Clause 6.1, the Supplier shall remain obligated to deliver the Goods and/or Services under the Order, and to perform its obligations under this Agreement in a timely manner in accordance with Clause 7.2 below.

### 7. SUPPLIER'S OBLIGATIONS

- 7.1 The Supplier shall for the duration of the Order supply the Goods and/or Services to Wavefront in accordance with the terms of the Agreement.
- 7.2 The Supplier shall meet any performance dates for the Goods and/or Services specified in the Order or that Wavefront notifies to the Supplier and time is of the essence in relation to any of such performance dates.
- 7.3 In providing the Goods and/or Services, the Supplier shall:
  - 7.3.1 co-operate with Wavefront in all matters relating to the Services, and comply with all instructions of Wavefront;
  - 7.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 7.3.3 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;
  - 7.3.4 ensure that the Goods and Services will conform with all descriptions and Specifications set out in the Order, and that the Goods shall be fit for any purpose that Wavefront expressly or impliedly makes known to the Supplier;

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- 7.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 7.3.6 use the best quality Goods, materials, standards and techniques, and ensure that the Goods and materials supplied and used in the Services or transferred to Wavefront, will be free from defects in workmanship, installation and design;
- 7.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 7.3.8 comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services, and with any policies as may from time to time be notified by Wavefront;
- 7.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of Wavefront's premises or worksites;
- 7.3.10 hold all materials, equipment and tools, drawings, Specifications and data provided by Wavefront to the Supplier ("Wavefront Materials") in safe custody at its own risk, maintain Wavefront Materials in good condition until returned to Wavefront, and not dispose or use Wavefront Materials other than in accordance with Wavefront's written instructions or authorisation;
- 7.3.11 not do or omit to do anything which may cause Wavefront to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Wavefront may rely or act on the Services.

### 8. OBSOLESCENCE AND COUNTERFEIT PARTS

- 8.1 "**Obsolete Part**" means a part that is no longer in production by the original manufacturer or an aftermarket manufacturer that has been provided with express written authorisation from the original manufacturer. "**Counterfeit Part**" means a part that is (1) an unauthorised copy or substitute that has been identified, marked, and/or altered by a source other than the item's legally authorised source and has been misrepresented to be an authorised item of the legally authorised source and/or (2) a previously used part provided as 'new'. "**Suspect Counterfeit Electronic Part**" means a part where visual inspection, testing, or other information provides reason to believe that the part may be a Counterfeit Part. "**Counterfeit Electronic Part**" means an unlawful or unauthorised reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified electronic part from the original manufacturer, or a source with the express written authority of the original manufacturer, including an authorised aftermarket manufacturer. Unlawful or unauthorised substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics. As used herein, "**authentic**" shall mean (A) from the legitimate source claimed or implied by the marking and design of the product offered; and (B) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.
- 8.2 Supplier shall take appropriate actions to mitigate parts obsolescence in order to maximize the availability and use of authentic, originally designed, and qualified parts throughout the Goods lifecycle.
- 8.3 Wavefront may desire and hereby reserves the right to place additional orders for items purchased hereunder. Supplier shall provide Wavefront with a "last time buy notice" at least twelve (12) months prior to any action to discontinue any item purchased under this Agreement.
- 8.4 Supplier shall notify Wavefront if parts they have supplied contain materials at risk of future obsolescence or supply risk due to current or proposed regulations and/or standards, either domestic or foreign.
- 8.5 Supplier shall have in place policies and procedures for training personnel, designing and maintaining systems to mitigate risks associated with parts obsolescence, making sourcing decisions, prioritising critical and sensitive components, ensuring traceability of parts, developing lists of trusted and non-trusted suppliers, flowing down requirements to subcontractors, and taking corrective action.

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- 8.6 Supplier represents and warrants that only new and authentic materials are used in Goods required to be delivered to Wavefront and that the Goods delivered contains no Counterfeit Parts. No other material, part, or component other than a new and authentic part shall be used unless approved in advance in writing by Wavefront. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, Supplier shall only purchase authentic parts/components directly from the original component manufacturer or original equipment manufacturer or through the original component manufacturer's or original equipment manufacturer's authorised distribution chain. Supplier must make available to Wavefront, at Wavefront's request, original component manufacturer or original equipment manufacturer documentation that authenticates traceability of the components to that applicable original component manufacturer or original equipment manufacturer.
- 8.7 Purchase of parts/components from independent distributors is not authorised unless first approved in writing by Wavefront. Supplier must present complete and compelling support for its request and include in its request all actions needed to ensure that the parts/components thus procured are legitimate parts. Wavefront may additionally need to get its customer's approval of Supplier's request. Awaiting the processing of such requests shall not constitute a basis for excusable delay on part of the Supplier. Wavefront's approval of Supplier request(s) does not relieve Supplier's responsibility to comply with all Contract requirements, including the representations and warranties in this provision.
- 8.8 Supplier shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification to Wavefront and its written approval before parts/components are procured from sources other than original component manufacturer or original equipment manufacturer or through the original component manufacturer's or original equipment manufacturer's authorised distribution chain. Supplier shall provide copies of such documentation for its system for Wavefront's inspection upon Wavefront's request. Supplier's system shall be consistent with applicable industry standards, for the detection and avoidance of Counterfeit Electronic Parts and Suspect Counterfeit Electronic Parts, including policies and procedures for training personnel, designing and maintaining systems to mitigate risks associated with parts obsolescence, making sourcing decisions, prioritising sensitive components, ensuring traceability of parts, developing lists of trusted and non-trusted suppliers, flowing down requirements to subcontractors, inspecting and testing parts, reporting and quarantining Suspect Counterfeit Electronic Parts and Counterfeit Electronic Parts, and taking corrective action.
- 8.9 Supplier shall flow the requirements of this provision to its subcontractors and suppliers at any tier for the performance of the Contract.
- 8.10 Should Supplier become aware of a Counterfeit Part or Suspect Counterfeit Part that, by any means, has been delivered to Wavefront, or acquired for this Agreement whether or not delivered to Wavefront, Supplier shall notify Wavefront as soon as possible but not later than 7 days of discovery. This requirement will survive this Agreement.
- 8.11 Supplier shall be liable for cost of Counterfeit Parts and Suspect Counterfeit Electronic Parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts.
- 8.12 Supplier shall quarantine Suspect Counterfeit Electronic Parts and Counterfeit Electronic Parts, and make them available for investigation by appropriate government authorities. Suspect Counterfeit Electronic Parts and Counterfeit Electronic Parts shall not be returned to the supply chain unless and until such time that the parts have been certified to be authentic.

### 9. WARRANTIES

- 9.1 The Supplier warrants that:
- 9.1.1 the quantity of the Goods shall be as specified in the Order;
  - 9.1.2 the Goods and Services supplied will conform to all applicable Specifications and samples;
  - 9.1.3 the Goods and Services will be of satisfactory quality (as defined in the Sale of Goods Act 1979 (as amended)) of good material and workmanship, free from defects and will be fit and sufficient for the purpose intended;
  - 9.1.4 the Services will be performed by appropriately qualified and trained personnel, with due care and diligence;
  - 9.1.5 the Goods and Services shall comply with Wavefront's quality conditions as issued by Wavefront from time to time;
  - 9.1.6 the processes and practices used by the Supplier in the supply shall comply with applicable Health and Safety and Environmental regulations, including without limitations, the requirements described under Clause 14 of these Terms and Conditions.
- 9.2 These warranties shall be in addition to all other warranties, express, implied or statutory.

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- 9.3 Payment for, inspection of, acceptance or receipt of Goods or Services shall not constitute a waiver of any breach of warranty.

### 10. INSPECTION AND TESTS

- 10.1 Wavefront reserves the right to inspect and/or test Goods or Services to the extent practicable on reasonable notice, including during manufacture and, in any event, prior to acceptance.
- 10.2 The Supplier hereby permits access to the Supplier's facilities for inspection of Goods or Services by Wavefront, its' agents or employees and will, at no additional cost to Wavefront, provide all tools, facilities and assistance reasonably necessary for such inspection.
- 10.3 It is expressly agreed that inspection and/or payment for the Goods or Services prior to final acceptance will not constitute acceptance of the Goods or Services. Wavefront shall be entitled to reject any Goods or Services delivered which are not in accordance with these terms and conditions. Wavefront shall not be deemed to have accepted the Order unless it has failed to reject them after having had 30 days within which to inspect them or, in the case of a latent defect, 30 days from such latent defect becoming apparent to Wavefront.
- 10.4 Without prejudice to any other rights it may have and in addition to the right to indemnity pursuant to Clause 23, Wavefront shall have the right upon rejection of Goods or Services which do not comply with these terms and conditions (or any part thereof):
- 10.4.1 to require the Supplier to repair or correct the same or to supply replacements in accordance with these terms at the Supplier's expense and risk within 7 days or such other period as specified by Wavefront; and/or
  - 10.4.2 at Wavefront's sole option the right for Wavefront to correct or repair the same and the Supplier shall indemnify Wavefront against all costs (including as to labour or spare parts) in respect of such correction or repair; and/or
  - 10.4.3 at Wavefront's sole option (and whether or not Wavefront has previously required the Supplier to repair or to supply any replacement Goods or Services), to treat the Agreement as discharged by the Supplier's breach and require the repayment of any part of the price which has been paid.
- 10.5 Goods or Services which have been delivered and rejected in whole or in part may, at Wavefront's option, be returned to the Supplier or notified in writing to the Supplier for collection in either case at the Supplier's risk and expense. Wavefront reserves the right to charge storage costs and rejected Goods will be stored at the Suppliers risk.

### 11. DELAYS

- 11.1 If Supplier fails to comply with delivery of the Goods and/or Services by the performance due date, Supplier shall pay pro-rata damages to Wavefront, in respect of this default, for each day (or part thereof) that elapses from and including the performance due date of an amount equal to 0.1% of the Order value up to the maximum aggregate liability for damages of 7.5% of the Order value.
- 11.2 The Parties agree that the amount of damages for delay, payable by Supplier, in accordance with this Clause 11, represents an agreed, genuine pre-estimate of loss likely to be suffered by Wavefront, in the event of a delay to performance beyond the relevant performance due date. The payment of damages for delays does not relieve Supplier from its obligations to provide and/or install the Goods and/or to perform the Services, or from any other obligations or liabilities under this Agreement.

### 12. CONFIDENTIALITY OBLIGATIONS

- 12.1 Supplier undertakes that it shall not at any time during this Agreement and for a period of two (2) years after termination disclose to any person any confidential information concerning the business, affairs, customer, clients or suppliers of Wavefront or of any member of the Covelya Group, including information relating to Wavefront's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers (**Confidential Information**), except as permitted by Clause 12.2.
- 12.2 Supplier may disclose Confidential Information:
- 12.2.1 to its employees, officers, agents, consultants or subcontractors who need to know such information strictly for the purposes of carrying out its obligations under or in connection with the Order, provided that the Supplier shall ensure that its representatives comply with the confidentiality obligations contained in this Clause 12.2.1 as though they were a party to this Agreement. The Supplier shall be responsible for its representatives' compliance with the confidentiality obligations set out in this clause; and
  - 12.2.2 as may be required by law, as mandated by a court of competent jurisdiction or any governmental or regulatory authority, provided that Supplier (prior to making such disclosure) shall give prompt

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notification to Wavefront in order to enable Wavefront make (to the extent permissible) appropriate representation or challenge to such disclosure requirement.

- 12.3 Wavefront reserves all rights in its Confidential Information. No rights or obligations in respect of Wavefront's Confidential Information other than those expressly stated in this Agreement are granted to the Supplier or to be implied from this agreement.
- 12.4 The Supplier agrees that all information furnished or disclosed to Wavefront by the Supplier in connection with the placing or filling of this Order is furnished or disclosed as a part of the consideration for this Order, and that such information is not, unless otherwise agreed to by Wavefront in writing, to be treated as confidential or proprietary to the Supplier, and that Supplier shall assert no claims (other than for patent infringement) by reason of the use or disclosure of such information by Wavefront, its assigns or its customers.

### 13. PROPRIETARY RIGHTS AND INTELLECTUAL PROPERTY

- 13.1 Supplier shall retain the ownership of Background IP owned by the Supplier ("**Supplier Intellectual Property**"). Wavefront shall retain the ownership of all of Wavefront's Background IP and Wavefront shall acquire exclusive title to all Foreground IP arising from the performance of this Agreement ("**Wavefront Intellectual Property**"). Nothing in these Terms & Conditions shall transfer ownership of Background IP from or to any Party. No rights or licences in IP are granted save as expressly set out in these Terms and Conditions.
- 13.2 Wavefront hereby grants to Supplier, for the purposes of the supply of the Goods and/or performance of the Services only, a limited, terminable, non-exclusive, royalty-free, non-transferable license to use such Wavefront Intellectual Property supplied by Wavefront to Supplier. This license will terminate on termination or expiry of this Agreement.
- 13.3 Supplier on its own behalf and on behalf of its subcontractors hereby grants to Wavefront an irrevocable, perpetual, royalty-free and transferable (including with right to assign its rights without consent to any purchaser of an interest in all or part of the Goods and/or Services) license and sublicense under the Supplier Intellectual Property, with the right to further sublicense: (i) to engineer, procure, design, finance, construct, inspect, test, validate, commission, operate, repair, maintain, upgrade and expand the Goods and/or Services, (ii) to copy, reproduce, and distribute all Supplier Intellectual Property in connection with the foregoing purposes with respect to the Goods and/or Services, and (iii) to prepare derivative works to perform the items listed in (i) and (ii) above. Wavefront shall have the right to convey this license to a purchaser of the Goods and/or Services or of any direct or indirect interest therein. The rights and licenses and sublicenses set forth in this Clause 13.3 shall survive any expiration or termination of this Agreement.
- 13.4 Supplier and Wavefront acknowledge that Licensors are expected to reserve their ownership rights with respect to all their pre-existing Intellectual Property licensed to Wavefront or Supplier (as applicable), as set forth in the applicable subcontract or license agreement ("**Third Party Intellectual Property**"). The ownership of such Third Party Intellectual Property shall be governed by the applicable license agreement or subcontract, except that Supplier shall procure from each of its subcontractors an agreement with provisions consistent with this Clause 13.4, and shall expressly include the grant to Wavefront of an irrevocable, perpetual, royalty-free and transferable (including with right to assign its rights without consent to any purchaser of an interest in all or part of the Goods and/or Services) license and sublicense to use all Third Party Intellectual Property of such subcontractors: (i) to engineer, procure, design, finance, construct, inspect, test, validate commission, operate, repair, maintain, upgrade and expand the Goods and/or Services, (ii) sell, and export products using the Goods and/or Services; (iii) to copy, reproduce, and distribute all such Third Party Intellectual Property in connection with the foregoing purposes with respect to the Goods and/or Services and (iv) to prepare derivative works to perform the items listed in (i), (ii), and (iii) above. Wavefront shall have the right to sublicense the foregoing license and sublicense in this Clause 13.4 (i) - (iii) and the license and sublicense in Clause 13.3 (i) and (ii) to a third party supplier to complete the engineering and/or procurement under this Agreement or modify the Goods and/or Services. The rights and licenses and sublicenses set forth in this Clause 13.4 shall survive any expiration or termination of this Agreement.
- 13.5 The licenses and sublicenses granted herein to Wavefront under the Supplier Intellectual Property and Third Party Intellectual Property, including all rights and obligations related thereto, shall be assignable by Wavefront, whether in whole or divisibly, without the approval or consent of Supplier and any Licensor, to: (i) any financing entity by way of collateral assignment or pledge; (ii) any entity that acquires substantially all of the assets of Wavefront with respect to the Goods and/or Services; (iii) any Affiliate of Wavefront that succeeds to substantially all of the assets of Wavefront; or (iv) any successor entity in merger, consolidation, or acquisition involving Wavefront; provided, however that, any such assignee or transferee assumes the obligations of Wavefront hereunder with respect to such Intellectual Property.

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- 13.6 The Supplier shall immediately upon request by Wavefront enter into such documents or agreements and provide such assistance (at no additional cost to Wavefront) as Wavefront shall reasonably require evidencing such rights.

### 14. HEALTH, SAFETY AND THE ENVIRONMENT

- 14.1 In providing the Goods and/or Services, the Supplier shall observe all health and safety rules and regulations, including without limitation the health, safety and environmental requirements of the Health & Safety at Work etc. Act 1974, the General Product Safety Regulations 2005, the Chemical (Hazard Information and Packaging for Supply) Regulations 2009, the Control of Substances Hazardous to Health Regulations 2002 and the Provision and Use of Work Equipment Regulations 1998. Goods must meet all relevant health and safety requirements applicable to Goods both in the state or form supplied to Wavefront and when incorporated in or combined with other goods which are either referred to in the Order or with which they would be incorporated or combined in the normal course.
- 14.2 Wavefront is committed to compliance with several international commercial and industrial standards, including **ISO 14001** (for environmental management systems), **ISO 45001** (for occupational safety and health management systems) and **ISO 50001** (for energy management systems) (collectively the "**Standards**"), and Wavefront is equally committed to applying the principles of these Standards to Wavefront's supply chain. Accordingly, the Supplier should ensure that it is fully aware of the criteria and guidelines set out in the Standards, and that it makes appropriate adjustments to its practices, processes, training and business culture so as to (as best as possible) attain compliance with these Standards.
- 14.3 Supplier hereby represents that it shall utilise and employ the most energy and environmentally efficient tools, products, materials, processes and facilities that are reasonably available to Supplier for supplying the Goods and Services under the Order. Furthermore, Supplier agrees to promptly inform Wavefront of any improvements, upgrades or modifications to such tools, products, materials, processes or facilities, which are capable of achieving greater environmental or energy efficiency than those currently used by Supplier.

### 15. TOOLING

- 15.1 Unless otherwise specified in the Order, all tooling and/or all other articles required for the performance of the Order shall be included in the cost of the Goods or Services and shall be maintained in good condition and replaced when necessary at the Supplier's expense.
- 15.2 Property in the tooling and/or all other articles required for the performance of the Order shall pass to Wavefront in accordance with the provisions of Clause 5.

### 16. SUBCONTRACTING

The Supplier shall obtain Wavefront's prior written consent before subcontracting out any part of this Order, provided this limitation shall not apply to the purchase of standard supplies or raw materials. Notwithstanding the foregoing, the Supplier shall remain responsible for the performance of the subcontractor.

### 17. BUYER'S PROPERTY

- 17.1 The Supplier acknowledges that Specifications provided by Wavefront, including any tools, jigs, dies and/or materials of any other nature furnished to the Supplier are Wavefront's property.
- 17.2 The Supplier will keep adequate records of such property which will be made available to Wavefront upon request, and will store, protect, preserve, repair and maintain any property belonging to Wavefront in accordance with sound industrial practice, at the Supplier's expense and risk.
- 17.3 The Supplier shall indemnify and keep indemnified Wavefront against any loss or damage to Wavefront's property or (at Wavefront's sole discretion) replace such items.

### 18. INSURANCE

During the term of the Agreement, the Supplier shall maintain in force the following insurance policies with reputable insurance companies:

- 18.1 public liability insurance with a limit of up to £1,000,000 (one million pounds sterling) for claims arising from a single event or series of related events in a year;
- 18.2 product liability insurance with a limit of up to £1,000,000 (one million pounds sterling) for claims arising from a single event or series of related events and for all events in total whether related or not in a year; and
- 18.3 employer's liability insurance with a limit of at least £5,000,000 (five million pounds sterling) for claims arising from a single event or series of related events in a year.



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### 19. PAYMENT TERMS

- 19.1 In respect of the supply of Goods or the provision of Services (except where milestone payments are stated in the Order), the Supplier shall invoice Wavefront upon the delivery of the Goods or performance of the Services as described in the Order. Each invoice shall quote the relevant Order number, date of the Order, the invoice number, the Supplier's VAT registration number and any supporting documents that Wavefront may reasonably require. Invoices shall be marked for the attention of the Finance Department. Any other communications or notices issued by the Supplier must be marked F.A.O Wavefront's named personnel referred to in the Order, or in the absence of named reference, the Purchasing Department and shall refer to the Order reference number.
- 19.2 Wavefront shall pay any undisputed amounts on an invoice submitted in accordance with Clause 19.1 above, provided such invoice has been submitted within 5 days of delivery of the Goods or performance of the Services, within 30 days of the date of invoice or such other period as may be agreed with the Supplier (the "**Due Date**"). Payment shall be made to the bank account nominated in writing by the Supplier.
- 19.3 If Wavefront disputes any amounts on an invoice or other statement of monies claimed by the Supplier, Wavefront shall promptly notify the Supplier and the parties shall negotiate in good faith to attempt to resolve the dispute promptly. Wavefront, without limiting any other rights or remedies it may have, may set off any amounts owed to the Wavefront Group by the Supplier against any amounts payable to the Supplier by the Wavefront Group.
- 19.4 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%.

### 20. CANCELLATION

Wavefront may terminate the Order in whole or in part at any time(s), prior to delivery of any Goods or full performance of the Services by notice in writing to the Supplier. Upon receipt of such notice, the Supplier will, unless the notice directs otherwise, immediately discontinue all work and cease to place orders for materials or facilities in connection with the performance of the Order and will promptly cancel all existing orders and terminate all subcontracts in so far as such orders or subcontracts are chargeable to this Order. The sole liability of Wavefront to the Supplier shall be to pay the:

- 20.1 Supplier the percentage of the total Order price corresponding to the proportion of the amount of work completed on the date of termination provided that the Supplier shall have provided evidence of work done to the reasonable satisfaction of Wavefront; and
- 20.2 The provisions of Clause 21.2 and 21.3 shall apply to the terminated Order.

### 21. TERMINATION

- 21.1 Wavefront shall be entitled to terminate the Order without liability to the Supplier by giving notice in writing to the Supplier at any time if:
- 21.1.1 the Supplier makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
  - 21.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier; or
  - 21.1.3 the Supplier ceases, or threatens to cease, to carry on business or is unable to pay its debts as and when they fall due; or
  - 21.1.4 Wavefront reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly; or
  - 21.1.5 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Supplier;
  - 21.1.6 an event of Force Majeure prevents the Supplier from performing its obligations under this Agreement Order for any continuous period of thirty (30) days; or
  - 21.1.7 the Supplier is in breach of these terms and conditions.

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- 21.2 Upon termination for any reason whatsoever all Goods or Services whether in finalised or in semi-processed state, work in progress and Specifications in which title has passed to Wavefront or supplied by Wavefront in connection with the Order shall be immediately transferred to Wavefront at the Supplier's risk and expense. Wavefront (or its agents) at Wavefront's sole option, may enter upon the premises of the Supplier where such items are stored to collect the same and the Supplier hereby grants Wavefront an irrevocable licence for Wavefront or its agents to enter and do so.
- 21.3 The rights of termination shall be without prejudice to any other rights or remedies Wavefront may have and Wavefront's right to indemnification shall survive termination.

### 22. COMPLIANCE WITH LAWS

- 22.1 Subject to Clause 22.4 the Supplier warrants that it will fully observe and comply with all applicable UK, EU and local laws, rules, regulations and orders pertaining to the production and sale of the Goods or Services ordered, and, upon request, the Supplier will furnish Wavefront with certificates of compliance with such laws, rules, regulations and orders. In particular and without prejudice to the remaining provisions of this Clause 22, Supplier warrants that it is fully observant and compliant with all UK, EU and local laws, rules, regulations and orders pertaining to:
- 22.1.1 Anti-bribery and anti-corruption legislation including the UK Bribery Act 2010 and US Foreign Corrupt Practices Act 1977;
  - 22.1.2 Anti-slavery and human trafficking practices including the UK Modern Slavery Act 2015; and
  - 22.1.3 Personal data protection, including the UK Data Protection Act 2018 and the EU General Data Protection Regulation (GDPR).
- 22.2 Without prejudice to the above but subject to Clause 22.4 the Supplier warrants all Goods (including components) shall comply with the following EC Directives and implementing legislation:
- 73/23/EEC Low Voltage
  - 89/336/EEC Electromagnetic Compatibility (EMC)
  - 89/392/EEC Safety of Machinery
  - 2011/65/EU Restriction of Hazardous Substances in Electrical and Electronic Equipment (RoHS 2)
- 22.3 Upon request, the Supplier will provide to Wavefront at no additional charge the following documentation confirming compliance with the provisions in Clauses 22.1 and 22.2 above, including without limitation:
- 22.3.1 a statement confirming the Supplier's compliance with the relevant EC Directives; and
  - 22.3.2 a set of any applicable installation instructions of sufficient detail to ensure Wavefront's Goods to comply with the EC Directives; and
  - 22.3.3 an appropriate EC Declaration of Conformity together with such Test Schedules, Reports and Analyses as necessary to support the Declaration.
- 22.4 This Clause 22 shall not apply in so far as failure to comply is as a result of a compliance with Specifications supplied by Wavefront, provided the Supplier has informed Wavefront in writing, prior to entering into the Order, that any of Wavefront's Specifications or designs for the Goods or Services may result in any part of the Order so failing to comply.
- 22.5 Where required, the Supplier will affix the appropriate CE marks for conforming components in compliance with applicable EC Directives.

### 23. LIABILITY & INDEMNIFICATION

#### 23.1 General Indemnity

The Supplier agrees to defend, indemnify, and hold harmless Wavefront, from and against losses, expenses (including, without limitation, reasonable attorneys' fees and costs), claims, damages, and liabilities for death, personal injury or damage to Wavefront's and/or the customer's property resulting from or arising out of:

- 23.1.1 the Supplier's breach of its obligations under this Agreement; and/or
- 23.1.2 the Supplier's negligence, fraud or wilful misconduct in respect of the Supplier's performance under the Order, (including the performance hereunder of the Supplier's officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed or controlled by the Supplier).

#### 23.2 Limitation of Liability

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With exception of the Parties' liability under Clause 23.1 but notwithstanding any other provision to the contrary hereunder, the maximum liability of either Party to the other shall not exceed an amount equal to the amount actually payable by Wavefront under the Order. Neither Party shall be liable to the other Party for any indirect, special or consequential damages whatsoever. Nothing in the Agreement shall exclude either Party's liability for death or personal injury caused by or arising out of such Party's and/or such Party's Personnel's negligence, intentional, wilful, wanton or reckless conduct, fraud or fraudulent misrepresentation, breach of confidentiality, violation of Law, infringement, misuse or misappropriation of Intellectual Property or license relating to the use of third parties' rights in Intellectual Property under the Agreement.

### 23.3 Intellectual Property Rights Indemnity

- 23.3.1 The Supplier shall indemnify and hold harmless Wavefront, its successors, assigns, customers and users of the Goods or Services in full, from and against all loss, damage, liability, claims, costs and demands, arising out of or in connection with any claim that the manufacture, use, sale or resale or importation of any Goods or Services supplied under this Order infringe any patent or patent rights, copyright, design right, trademark or other intellectual property right of any other person, except to the extent that the claim arises from compliance with any Specification provided by Wavefront.
- 23.3.2 Wavefront shall at its sole discretion choose to defend or settle any such claim or require the Supplier to defend or settle any such claim at Wavefront's direction and this indemnity shall apply whether or not Wavefront chooses to defend any such claim.

## 24. NOTICES

- 24.1 Any notice or other communication hereunder shall be in writing and for these purposes notices or communications by e-mail shall be deemed to be sufficient for these purposes.
- 24.2 Any such notice may be served by delivering it personally or by sending it by pre-paid first class post or by telex, facsimile transmission or e-mail at or to the address of the relevant party or any other address which it may from time to time notify in writing to the other parties.
- 24.3 Any notice to be given shall be in writing, and may either be delivered personally or sent by first class prepaid post, facsimile transmission or email to the address of the recipient set out in the Agreement or such other address as the recipient may designate by notice given pursuant to this clause. Each such notice shall be deemed to have been served, when delivered.

## 25. FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, national strikes (excluding labour actions specific to the Supplier's personnel), lock outs, acts of war (declared or undeclared), natural disaster, the effects of legislation, regulation, refusal of export licence or any other government refusal, embargo or intervention, or other legal intervention, or interference by civil or military authorities ("**Force Majeure**"); in such event, the party shall be entitled to a reasonable period of time extension so as to enable it perform its obligations after notifying the other party of the nature and extent of such events.

## 26. INDEPENDENT CONTRACTORS

The Supplier and Wavefront are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties.

## 27. GENERAL

- 27.1 Any reference in these terms and conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time and in the case of any EC Directive any implementing legislation or modifications thereto.
- 27.2 Headings are for convenience only and shall not affect the interpretation.
- 27.3 No waiver by Wavefront of any breach of the Agreement by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 27.4 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.
- 27.5 Neither this Order nor any rights or obligations herein may be assigned by Supplier nor may Supplier delegate the performance of any of its duties hereunder without, in either case, Wavefront's prior written consent.

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- 27.6 This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.
- 27.7 This Agreement shall be governed by the laws of England and Wales and the parties hereby submit to the non-exclusive jurisdiction of the English Courts.

## **END OF TERMS AND CONDITIONS**

### **WAVEFRONT SYSTEMS LIMITED**

Unit 5b Coldharbour Business, Park, Sherborne, Dorset, DT9 4JW