**GENERAL TERMS AND CONDITIONS OF SALE**

The present General Terms and Conditions of Sale (hereinafter the "**GTC**") apply to all services provided by:

**Airbus Protect,**

*A Private Limited Company*, incorporated under the laws of England and Wales, having its registered office at Quadrant House, Celtic Springs, Coedkernew, Newport, UK, NP10 8FZ, under the number 07541925

(hereinafter "**Airbus Protect**" or the “**Company**”),

 to

**[COMPANY NAME],**

*A Private Limited Company* , incorporated under the laws of [England and Wales], having its registered office at [INSERT ADDRESS], under the number [INSERT COMPANY NUMBER].

(hereinafter referred to as “[**X]**” or the “**Client**” or the “**Purchaser**”)

Airbus Protect and the Client shall be jointly referred to as the "**Parties**".

Airbus Protect and its affiliated Companies, when applicable, provides Services (as defined below) on the basis of these GTC and the Agreement (as defined below) on behalf of the Client.

**PREAMBLE**

The Services may consist of the supply of material and/or hardware (hereinafter the "**Goods**"), the licensing of software (hereinafter the "**Software**") and the performance of various services (including security assessment) (collectively referred to as the “**Services**”) on behalf of the Client. Therefore, the GTC except where specific provisions are stated to apply to either the Software or the Goods.

The Client agrees to the application of these GTC for any contract formed with the Company and excludes the application of any other terms or conditions that may have been proposed by the Client or which are implied by trade, custom, practice or course of dealing and not expressly accepted by the Company.

The present GTC shall prevail over the Client's General Terms and Conditions of Purchase (hereinafter the "GTCP"). The communication of the GTCP by the Client shall not imply in itself an acceptance by the Company, even on an implicit basis, which acceptance shall only result from a specific agreement signed by a duly authorised legal representative of the Company and distinct from the Client's Order form.

In the event of ambiguity, inconsistency or contradiction between the terms of the Offer Letter, the Purchase Order and any reservations made by the Client and/or the Company, the latter shall, within a reasonable period of time consistent with the purpose of the Proposal and the timeframes for the provision of the Services, negotiate and reach an explicit written agreement.

Any quotation given by the Company shall not constitute an offer, and is only valid for a period of twenty (20) Business Days from its date of issue.

**SUMMARY**

[1. INTERPRETATION](#_heading=h.715qnpzf1zxr)

[2. DURATION](#_heading=h.jtet2fbj1wds)

[3. PURCHASE ORDER AND ADDITIONAL REQUESTS](#_heading=h.64tr17ysojm0)

[4. MUTUAL OBLIGATIONS AND COMMITMENTS](#_heading=h.krkje0l16z78)

[5. RECEPTION - ACCEPTATION - CONFORMITY](#_heading=h.d8e1wfc7znw7)

[6. GOODS](#_heading=h.7mindufr2q60)

[7. WARRANTY](#_heading=h.ta9axfqe5wzh)

[8. FEES, EXPENSES AND PAYMENTS](#_heading=h.1nlrg4b1utw3)

[9. SUSPENSION OF SERVICE](#_heading=h.rdajbj5t7o9n)

[10. COMPANY PERSONNEL](#_heading=h.15e2byc26cve)

[11. INTELLECTUAL PROPERTY RIGHTS](#_heading=h.xo4dg7n6js1)

[12. CONFIDENTIALITY](#_heading=h.tzv5zgpz61rn)

[13. LIABILITY](#_heading=h.uu7nwj4rsjbh)

[14. COMPLIANCE WITH REGULATIONS](#_heading=h.sxffcbpfjv80)

[15. FORCE MAJEURE](#_heading=h.ib5vargyiwn9)

[16. INSURANCE](#_heading=h.jfw7b277se3u)

[17. TERMINATION](#_heading=h.tjzyioukfqi8)

[18. NON-SOLICITATION](#_heading=h.hbyegzk2ugjz)

[19. ASSIGNMENT AND SUBCONTRACTING](#_heading=h.sfqnca6vacmd)

[20. FURTHER ASSURANCE](#_heading=h.szluccnp853w)

[21. NOTICES](#_heading=h.eg7rn56w88ry)

[22. RELATIONSHIP](#_heading=h.uretyrr6ruwe)

[23. THIRD PARTY RIGHTS](#_heading=h.roudfhfq2vwq)

[24. COSTS](#_heading=h.vzoy1u5jakuz)

[25. SURVIVORSHIP](#_heading=h.vqrc4m7ljp38)

[26. VARIATION](#_heading=h.h66eqq37brbt)

[27. SEVERABILITY](#_heading=h.o4ingf4lcakz)

[28. WAIVER](#_heading=h.36csbbaodzmp)

[29. COUNTERPARTS](#_heading=h.ublamdhh4s9c)

[30. ENTIRE AGREEMENT](#_heading=h.6joxo5f8gaqj)

[31. DISPUTE RESOLUTION](#_heading=h.bgs7ozq6vdkp)

[32. GOVERNING LAW AND JURISDICTION](#_heading=h.iysheak8bg19)

# INTERPRETATION

* 1. **DEFINITIONS**

Unless the context otherwise requires, words used in the singular shall include the plural and the plural shall include the singular.

“**Agreement**” refers to this GTC entered into between the Client and the Company for the provision of the Services together with the Offer Letter, individual quotations and/or technical documents provided or agreed with by the Company and the Purchase Order.

"**Affiliated Company(ies)**" refers to, in relation to each Party, any company that directly controls the Party. For the purpose of this definition, “control” shall mean the direct ownership of more than seventy percent (>70%) of the voting rights.

“**Business Day**” refers to a day other than a Saturday, Sunday or a bank holiday in England and Wales.

“**Consultant**” refers to a person or the persons specified in the Offer Letter as being the person identified to provide the Services on behalf of the Company, or such other person as may be agreed between the Parties from time to time.

“**Commencement of Service**”: refers to any activity that enables the Service to be initiated, including (i) the date of the commencement of the Service detailed in the Agreement (ii) the delivery of a Deliverable that has been started or completed, (iii) the scheduling and confirmation of an in-person or remote meeting specifically intended to initiate the Services or monitor their progress, (iv) the organisation and confirmation of the arrival of the Company’s personnel at the Client’s premises or (v) any formal, documented communication or activity between the Client’s personnel and the Company’s personnel that is directly related to the initiation or the execution of the Service.

“**Deliverables**”: refers to the deliverables set out in the Order.

“**Delivery Location**”: has the meaning set out in the Offer Letter.

“**Facilities**”: refers to the Client’s premises along with equipment (electronic, telephonic or otherwise) made available to the Company and its Consultants in the provision of the Services.

“**Fees**”: refers to the charges for the Service(s) as set out in the Offer Letter.

“**Goods**”: refers to the supply of hardware and/or material (or any part of them) set out in the Offer Letter.

“**Goods Specification**”: refers to any specification for the Goods, including any relevant plans or drawings that are agreed in writing by the Client and the Company.

“**Intellectual Property Rights**”: refers to any rights title and interest in copyright, patents, know-how, trade secrets, trademarks, service marks, trade names, goodwill, registered designs, design rights, database rights, moral rights and all similar rights and, in each case: (i) whether or not registered or registrable, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future, (v) to which a Party or its supplier are or may be entitled and (vi) wherever existing.

“**Invoice**”: refers to the document issued by the Company detailing the Services provided, the amount due, payment terms, and any applicable taxes.

“**Offer Letter**” or “**Proposal**”: refers to an offer letter signed on behalf of the Company and served on the Client which includes a description of the Services, the name(s) of the Consultant(s) who will provide the Services when applicable, the price or rate applicable to the Services and any particular terms applying to the Services which are additional to the terms and conditions set out in this Agreement.

“**Purchase Order**” or “Order”: refers to an order for the Services referring to this Agreement and the Offer Letter, signed on behalf of the Client and served by the Client on the Company.

“**Services**” refers collectively to the provision of Goods, the licensing of software (hereinafter referred to as the "**Software**"), and the performance of various services (including security assessments) on behalf of the Client.

The Company and the Client are hereinafter together referred to as “**Parties**” and individually as “**Party**”.

* 1. **RULES**

**In this Agreement, the following rules apply:**

* + 1. In the event of any conflicting terms within the Agreement, the order of precedence for interpretation shall be as follows: (i) the Offer Letter, (ii) the GTC, and (iii) the Purchase Order, with the terms of the higher-ranking document prevailing over the lower-ranking document;
		2. Both Parties agree to act in good faith in the performance of their respective obligations under these Agreement. This includes a duty to deal fairly, honestly, and reasonably with one another and to not take any action that would deliberately hinder or prevent the fulfilment of this Agreement;
		3. Any reference to a "Clause", "Article", or "Schedule" is to a Clause, Article, or Schedule of this Agreement unless otherwise specified;
		4. The headings in the Agreement are for convenience only and shall not affect the interpretation of any provision;
		5. By accepting these GTC, the Parties agree that the Client's general terms and conditions of purchase, even if referenced in any order form or other documentation, shall not apply to the Services provided under this Agreement;
		6. The term “person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); and
		7. 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..

# **DURATION**

* 1. The Agreement comes into force on the first occurrence of one of the following events:
		1. the Client provides written and express acceptance of the Proposal;
		2. the Company issues a written acceptance of the Purchase Order submitted by the Client;
		3. Both Parties sign these GTC or a specific contract;
		4. Both Parties sign special terms and conditions of sales; and/or,
		5. The Commencement of Service following the issuance of the Offer Letter.
	2. In all cases, the Service provision is subject to the successful completion of all compliance and business ethics verification processes. These verifications must be carried out properly and must not reveal any incompatibility, prohibition or risk, however minor, that would prevent the Agreement from being concluded. In the event of any problems arising from these reviews, the Party conducting them reserves the right to terminate the negotiations and any pre-contractual agreements without incurring any liability or obligation to indemnify the other Party.
	3. Notwithstanding the foregoing, if the Company begins to perform the Services prior to the issuance of a formal Purchase Order, the conditions set forth in this Agreement, as well as those set forth in the Offer Letter, shall immediately become binding and shall be deemed accepted by the Client.
	4. The Company shall carry out the Services in accordance with the timescales set out in the Agreement, notably according to the date specified in the Order.
	5. Subject to earlier termination under this Agreement, it will terminate upon completion of the Services.

# **PURCHASE ORDER AND ADDITIONAL REQUESTS**

* 1. Purchase Order: the Purchase Order shall include the reference of the related Offer Letter or at minimum the following information: (i) the nature of the Service provided, (ii) the scope of Service, (iii) the price (iv) the Purchaser’s point of contact, and (v) the duration of Service provision, which is considered integral part of the Agreement. Any reference to the Client’s purchase terms and conditions within the Purchase Order shall be deemed null and void and shall not be binding upon the Seller. Acceptance of the Purchase Order by the Company shall not imply acceptance of any such terms and conditions. Any modifications to the Purchase order must be mutually agreed upon in writing by both Parties.
	2. Additional Requests: any additional requests or specific requirements submitted by the Client, will necessitate the issuance of a new Offer Letter outlining at a minimum, the updated Fees and, if required, any updated Services conditions.

# **MUTUAL OBLIGATIONS AND COMMITMENTS**

* 1. **The Company undertakes as follows:**
		1. to use reasonable care, skill and attention in the provision of the Services in accordance with the usual standards expected of a professional service provider, to comply with the Client's reasonable instructions and to comply with all applicable regulatory and legal requirements;
		2. to provide the Services using its own equipment, unless agreed otherwise, and upon termination of this Agreement, return to the Client any equipment belonging to the Client in its possession;
		3. to promptly notify the Client as soon as it is aware of any event which it considers likely to delay or hinder the performance of the Services;
		4. to keep all appropriate records relating to the performance of this Agreement and provide copies to the Client upon reasonable request it being acknowledged and accepted that the originals of such records remain at all times the property of the Company;
		5. to use reasonable endeavours to ensure that the provision of the Services does not infringe any third party's Intellectual Property Rights and, subject to the limits and requirements within Clause “Liability”, to indemnify and keep indemnified the Client against any such infringement that may occur;
		6. not to perform any act likely to prejudice the operation of the Client’s systems and not to install on the Client’s computer equipment any software or electronic files that are not authorised in advance by the Client, unless expressly required to be used by the Company in the performance of the Services;
		7. not use any Facilities provided to it by the Client for any purpose other than that which has been authorised in advance by the Client, unless expressly required to be used by the Company in the performance of the Services; and
		8. to comply with any rules or regulations applied and communicated by the Client in relation to health and safety or security at the Client’s Facilities.
	2. TheCompany warrants that it has full power and authority to enter into and perform this Agreement.
	3. **The Client undertakes as follows:**
		1. to pay the Fees at the times and in the manner specified in the Article11 “Fees, Expenses and Payments” of this Agreement;
		2. to the extent reasonably required to provide the Company with all necessary access to the Facilities, resources, and information at no extra cost to the Company, as is necessary to enable the Company to perform the Services in accordance with the Agreement,;
		3. to appoint at least one representative with the necessary skills to cooperate with the Company during the performance of the Services and to provide with to the Company any assistance and elements, e.g. documents, the specifications and information of any kind reasonably required to carry out the Service, within a reasonable period of time;
		4. as soon as it becomes apparent to promptly notify the Company by way of written notice of the occurrence of any event that may hinder the proper performance of the Services and to ensure when applicable that all Facilities provided or given access to the Company in the scope of the Services are safe, in good working order, and suitable for the purpose intended;;
		5. as soon as it becomes apparent to promptly notify the Company of any breach of this Agreement by the Company;
		6. In the case of a Service involving intrusion into the Client's information system, the Client is hereby informed that the Client must be familiarised with, and complete and sign the documentation, if necessary, authorising entry into his information system for a defined assignment; and,
		7. The Client is personally responsible for obtaining any legal and/or contractual approvals required by the authorities, its suppliers, or its own customers or any other third parties affected by the Service.
	4. The Client warrants that it has full power and authority to enter into and perform its obligations contained in the Agreement.

# **RECEPTION - ACCEPTATION - CONFORMITY**

* 1. The Services provided by the Company are deemed to be compliant, fully and correctly performed upon the occurrence of any of the following events:
		1. If the nature of the Deliverable does not permit the Client to raise objections at the time of delivery;
		2. If the Client formally and unequivocally accepts the Deliverable at the time of delivery;
		3. If, within ten (10) days following the delivery of the Deliverable, the Client does not raise any objections or reservations; or
		4. If no objections are raised at the closing meeting held at the end of the Services.
	2. Any objections or reservations raised after the ten (10) day period or not mentioned at the time of handover, will not be considered.
	3. Reservation Process:
		1. If the Client raises an objection or reservation within the prescribed period, he/she must specify the reasons for any non-conformities, defects, and/or shortcomings observed.
		2. If the Client's reservation is not precise or detailed, the Company reserves the right to reject the reservation in writing within fifteen (15) days of receiving it. The Client then has an additional fifteen (15) days to provide a detailed explanation.
	4. If the non-conformities, defects, and/or missing elements are solely attributable to the Company and confirmed by the Company, the Company will, at its discretion, replace or complete the non-conforming or defective elements. Only the specific elements identified as non-conforming or defective will be addressed.

# **GOODS**

* 1. The following Article applies specifically to Goods.
	2. The Goods are detailed in the Offer Letter;
	3. Client-supplied specifications: if the Goods are manufactured according to the Client’s specification, the Clients shall indemnify the Company against any claims of intellectual Property infringement arising from the use of those specifications. This indemnity shall survive the termination of this Agreement.
	4. The delivery is complete when the Goods arrive at the location specified in the Agreement. Delivery dates are estimates and the Company shall not be liable for delays caused by circumstances beyond its control or by the Client's failure to give adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
	5. If the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Client's failure to provide the Company with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
	6. If the Client fails to accept or take delivery of the Goods within ten (10) Business Days of the Company notifying the Client that the Goods are ready, delivery will be deemed complete. The Company may, if applicable, charge for storage and all related costs (including insurance) and can also resell uncollected Goods after this period and recover any shortfall.
	7. The Company may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Client to cancel any other instalment.

# **WARRANTY**

* 1. **Service Warranty**
		1. The Company warrants that the Services will be provided in accordance with best practices prevailing at the time of performance, and in line with the Agreement. However, the Company does not warrant that the results of its Services, including but not limited to studies, analyses, or recommendations, will necessarily prevent, mitigate, or control the anticipated events, threats, attacks, risks, malicious activities, or dangers identified or assessed. Furthermore, the Company does not guarantee that the results of the Services will ensure compliance with any standards or requirements set by the Client's regulatory authorities, customers, or suppliers.
		2. The Company shall indemnify and hold the Client harmless against any claims brought in the United Kingdom by a third party alleging that any deliverable or result provided by the Company as part of the Services infringes the third party's intellectual property rights.
	2. **Goods Warranty**
		1. Duration: unless extended by mandatory legal provisions, the Goods are warranted for one (1) year from the latest of the following dates:
		2. the date of delivery;
		3. the date of commissioning; or
		4. the date of acceptance, in the case of commissioning or installation work carried out by the Company.
		5. Warranty Details: The warranty is limited, at the discretion of the Company, to either the free replacement of defective parts or the free repair of those parts at the Company's premises, or those of its suppliers or subcontractors, or customers.
		6. During this period, the Company warrants the new equipment supplied and the commissioning or assembly work carried out, provided that the latter has been performed exclusively by the Company, against all manufacturing defects. The burden of proving the existence of such defects lies with the Client.
		7. The warranty for components acquired and resold by the Company to the Client as ancillary items, without being incorporated into the Goods, is limited to the warranty provided by the Company's supplier or subcontractor for the component in question.
		8. All accessories or parts subject to rapid wear (such as, for example, flexible cords, batteries, accumulators, etc.) are not covered by any warranty from the Company after their delivery and/or commissioning.
		9. Transfer of risks: The transfer of risks to the Client related to the Goods shall occur upon their departure from any site, factory, warehouse, or storage location managed by the Company.
		10. To this end, the Client undertakes to insure the Goods, at its own expense, for the benefit of the Company until full transfer of ownership. This insurance must be documented and presented to the Company at the time of delivery. If the Client fails to provide proof of insurance, the Company reserves the right to delay delivery until such proof is presented.
		11. In the event that the Client is responsible for collecting the Goods directly from the Company, the Client must insure the Goods at its own expense for the benefit of the Company until the transfer of ownership is complete. After the full transfer of ownership, the insurance must benefit the Client.
		12. The Company shall not be liable for failure to comply with the warranty if:
		13. The Client continues to use the Goods after notifying the Company of the defect, unless the Company has approved such use in writing;
		14. The defect arises from the Client’s failure to follow the Company’s instructions regarding storage, installation, commissioning, use, or maintenance, or from not adhering to good trade practice where no instructions are provided;
		15. The defect results from the Company using any drawing, design, or Goods Specification supplied by the Client.
		16. The Client alters or repairs the Goods without the Company’s written consent;
		17. The defect is due to fair wear and tear, wilful damage, negligence, or abnormal working conditions; and/or,
		18. The Goods differ from the Goods Specification due to changes made to comply with statutory or regulatory standards.
		19. Limitation of Liability: Except as provided above, the Company shall have no liability for any failure to comply with the warranty.
		20. Repaired or Replacement Goods:The terms of this warranty apply to any repaired or replacement Goods supplied under this warranty.
	3. **Software Warranty**
		1. The Software is warranted under the terms set out in the user licence provided by the Company for each specific Software product. Unless explicitly stated otherwise, if a reproducible defect affecting the Software sold by the Company arises within ninety (90) days of the Software being put into service, the Company will, at its own expense and as promptly as possible, use its best efforts to remedy the defect or provide a replacement Software medium of the same type to circumvent the issue.
	4. **Exclusion of Warranty**
		1. The Company excludes any warranty in cases of negligence or fault by the Client or third parties. This warranty shall not apply if the defect results from any use of the Deliverable by the Client or third party that does not adhere to the provided specifications and usage recommendations.
		2. No additional warranties, whether express or implied, other than those stated above or required by mandatory legislative or regulatory provisions, are granted by the Company.

# **FEES,** EXPENSES **AND PAYMENTS**

* 1. **Invoicing and payment terms**
		1. The Fees and charging model (e.g. fixed or time and means) for the Services are determined prior to the Commencement of the Service and are specified in the Offer Letter. The Client agrees to pay all Fees and properly incurred expenses as outlined in the Offer Letter. Unless stated otherwise, Fees and expenses are quoted in GBP, exclusive of VAT. VAT, where applicable, is payable at the prevailing rate, and the Client agrees to pay such VAT upon receipt of a valid VAT invoice in accordance with the GTC.
		2. Unless otherwise agreed between the Parties:
		3. For Services lasting less than one (1) year, the prices are fixed, firm, and final.
		4. For Services extending beyond one (1) year, the Company reserves the right to adjust prices annually by up to five percent (5%).
		5. The Company may charge for expenses where applicable, notably if specified in the Offer Letter, or if the Client requests travel that results in unexpected expenses.
		6. Given the current global economic conditions, including high inflation and uncertainty regarding future developments, the financial dynamics of this Agreement may be affected. If the inflation rate exceeds 5% during the validity of the Offer Letter or the term of the Agreement, the Parties agree to negotiate in good faith to adjust the prices, ensuring the balance of costs and prices as originally determined.
		7. The Fees stated in this Agreement are based on the information and requirements provided by the Client. Any additional needs not expressed at the time of the Purchase Order, which become apparent during the performance of the Services may result in additional Services and corresponding Fees adjustment.
		8. Special pricing conditions may apply depending on specific Client requirements, such as delivery terms, deadlines, or payment conditions. In such cases, the Company may issue a specific Offer Letter to the Client.
		9. The Company shall invoice the Client in respect of the Services monthly in arrears to be calculated from the date of commencement of the Services. Fees and expenses correctly Invoiced are due for payment thirty (30) days from the invoice date.
		10. In the event that the Client disputes part or all of an Invoice, the Client agrees to pay the undisputed part. Disputed Invoices or parts thereof will be subject to the agreed dispute resolution procedure, detailed in Article“Dispute Resolution”, and due for payment within five (5) Business Days of agreement being reached.
		11. The payment dates and deadlines set out in the Agreement and/or the Purchase Order and in these GTC are imperative and constitute an essential obligation of the Client for the payment of the Service provided by the Company.
	2. **Default of Payment**
		1. In the event of non-payment of the price by the Client within the applicable deadlines, the Company shall send to the Client, a formal notice to proceed with the payment along with any applicable interest on the overdue amount.
		2. If payment is not made within fifteen (15) days of the notice, the Company reserves the right to take the following actions:
		3. Make all outstanding amounts due to the Company immediately payable;
		4. Pursue legal enforcement of the Agreement through the appropriate Commercial Court; and/or,
		5. Demand the return of the results of the Services when applicable.
		6. The demand for the return of the results of the Services does not preclude the Company from:
		7. Terminating the Agreement for the Client's failure to fulfil its obligations;
		8. Seeking damages from the Client;
		9. Enforcing any Clause in the GTC related to payment default;
		10. Suspending or cancelling any outstanding Purchase Orders; and/or,
		11. Suspending or postponing the performance of its obligations.
		12. If the Company takes action to enforce payment, it reserves the right to recover any associated costs, including but not limited to legal fees, court costs, and collection agency fees.
		13. If the full payment of any amount due are not made by the due date, the Company may, without limiting its other rights and remedies either under this Agreement or at common law, charge interest on a daily basis on such sums from the due date up to and including the date of payment whether before or after judgement at the rate prescribed under the Late Payment of Commercial Debts (Interest) Act 1998.
		14. The Client is required to maintain accurate billing information and payment records and to provide these to the Company as necessary.

# **SUSPENSION OF SERVICE**

* 1. Without prejudice to its right to terminate this Agreement or any other remedies available to it in the event of any breach of any of the terms and conditions of this Agreement by the Client, the Company may postpone or suspend the provision of the Services by giving notice to that effect for any period during which the Client is in breach of this Agreement and no liability shall accrue to the Company for any delay arising or costs incurred by the Client by virtue of any period of suspension pursuant to this Article.

# **COMPANY PERSONNEL**

* 1. The Consultant(s) responsible for providing the Services shall be as specified within the Offer Letter.
	2. The Consultant(s) is/are retained on a non-exclusive basis. Nothing in this Agreement shall prevent the Consultant(s) from providing similar services to any other person save where this would create a conflict of interest.
	3. If a Consultant becomes unable to provide the Services, the Company will notify the Client as soon as reasonably practicable and the Company will find a suitably qualified replacement with equivalent skills and competencies required to perform the Service. The Company shall seek to minimise any disruption caused by such replacement.

# **INTELLECTUAL PROPERTY RIGHTS**

* 1. **General Framework**
		1. In general, subject to any third party rights, each Party remains the sole owner of its Own Knowledge (hereinafter "Knowledge").
		2. Without prejudice to the provisions of Article 7.4 above, the Parties guarantee that they have the free disposal of the Knowledge that they make available to the other, and that such Knowledge does not infringe any restriction on dissemination or disclosure or any third party's intellectual property rights.
	2. **The Company’s Own Knowledge**
		1. In order to perform the Service, the Company uses its own Knowledge.
		2. The Company grants the Client, for the duration of the Service and for the sole purpose of its performance, a personal and non-exclusive right to use its Knowledge. The Client undertakes to respect them and shall refrain, without prior written consent from the Company, from :
		3. to use, copy or reproduce all or part of it for any other purpose than in the cases provided for in the Agreement;
		4. to modify them in any way whatsoever;
		5. to transmit them to third parties;
		6. to acquire any intellectual property rights whatsoever;
		7. conceal or remove any intellectual property rights or other regulatory or legal notices from such Knowledge;
		8. manufacture, distribute, sell or offer Services based on this Knowledge.
		9. With the exception of the limited right of use provided for in Clause 15.2.2, the Client acknowledges that the Agreement does not confer any rights on the Client in respect of such Knowledge and the Company's intellectual property rights in respect thereof.
		10. All Foreground Knowledge provided to the Client shall remain the exclusive property of the Company and shall be returned to the Client upon request.
	3. **The Client’s Own Knowledge**
		1. The Client shall inform the Company of the Knowledge it possesses and which is necessary for the performance of the Service and/or the use and/or exploitation of the Results, at the latest at the conclusion of the Agreement.
		2. The Client undertakes to authorise the Company, without the need for a specific agreement, to reproduce, exploit, translate, adapt, modify and communicate the said Knowledge as long as this is necessary for the performance of the Agreement.
		3. In return, the Company undertakes not to use the said Knowledge for any purpose other than the performance of the Agreement, and in any event not to acquire any intellectual property rights on the basis of the Client's Knowledge.
	4. **SOFTWARE**
		1. The Company grants the Client a licence to use the Software under the conditions defined in the licence agreement signed between the Parties.
		2. Otherwise, the Company and/or its possible suppliers shall retain the ownership of all intellectual property rights relating to the software and the associated documentation made available and used during the execution of the Agreement.
		3. The Client therefore undertakes not to use them for purposes other than those provided for in the licence for use in the Agreement, nor to reproduce them and/or communicate them to third parties in any way whatsoever, subject to the express derogations provided for in the Agreement.
		4. In the event that the Software is not essential to the performance of the Services, the Company shall have the discretion to accept or refuse to grant a licence.
	5. **Results**
		1. Ownership: Subject to the rights of third parties, the Company shall retain all Knowledge generated in the course of providing the Services. In particular, but without this being considered exhaustive, the Contract is not intended to and shall not be considered as having the effect of transferring to the Client any right whatsoever over the Results.
		2. However, the Company grants the Client a non-exclusive licence to use the Results produced during and/or after the performance of the Services, this licence including the right for the Client to reproduce and represent the Results for its own internal needs exclusively, worldwide. The Client agrees not to make any other use of the Results and in particular agrees not to modify, translate, reproduce or represent them for the benefit of third parties other than those of its employees who need to know them.
		3. Guarantee: the Company guarantees the Client against any action brought in France by a third party alleging that a Result infringes its intellectual property rights
		4. In this context, the Company shall bear the costs, damages and lawyers' fees that the Client would have to incur at the end of either a final court decision or a settlement agreement concluded with the prior written consent of the Company.
		5. This warranty constitutes the Client's sole and exclusive remedies in this regard and is subject to the following conditions
		6. that the infringement does not result from (i) any use or modification of the Results not expressly authorised by the Company or (ii) any combination of the Results with other products, software or services;
		7. that the Client has promptly informed the Company of the action brought by a third party against him and has given the Company control of the defence action that the Client provides the Company with all necessary means, information and all reasonable assistance in order to face this action;
		8. that the Client refrains from any initiative having the object or effect of recognising the validity of the claims formulated by the third party or of compensating the damage alleged by the latter.

# **CONFIDENTIALITY**

* 1. In the event that the Parties exchange Confidential Information in connection with the Agreement in the context of the Contract, they agree to establish a confidentiality agreement governing any such potential exchange of Confidential Information.
	2. If a confidentiality agreement is not signed within the time allowed to perform a Service, it is specified that the Parties undertake to protect and keep strictly confidential any Confidential Information received in accordance with the conditions listed and for the duration as agreed in this article.
	3. Confidential Information shall be treated as confidential, whether or not it is expressly marked as the word "confidential" is used.
	4. Each Party shall only disclose the Confidential Information of the other Party to persons involved in the Services covered by the Agreement Contract and only to the extent necessary for their involvement and shall be obliged to ensure that such persons recipients comply with the obligation of confidentiality set out in this Article.
	5. The Parties are required to preserve the confidential nature of the said information by taking at least the same measures as those they usually take to protect their own confidential information and shall ensure that all their personnel, whatever their status, respect the same obligation of secrecy and confidentiality for all Confidential Information.
	6. In the event of a breach, and without the need to demonstrate prejudice, the defaulting Party shall pay damages to the Party that originally disclosed the Confidential Information.
	7. This Clause 7 will remain in force for a period of three (3) years from termination of this Agreement, regardless of the reason for termination (howsoever arising).
	8. Subject to Clause 14.4 neither Party shall, without the other’s prior written consent, disclose :
		1. the terms or existence of this Agreement;
		2. any information relating to the customers, suppliers, methods, products, plans, finances, trade secrets or otherwise to the business or affairs of the other Party which the receiving Party should reasonably consider to be confidential or has been identified by the other Party as such; and
		3. any information developed by either Party in performing its obligations under this Agreement.
	9. For the purposes of this ArticleClause 14 the matters referred to in Clause 14.1 comprise Confidential Information.
	10. Neither Party shall use the other’s Confidential Information except to perform this Agreement.
	11. Each Party may disclose to its officers, employees, professional advisors and consultants who have a need to know the same Confidential Information on condition that the Party disclosing is responsible for compliance with the obligations of confidentiality hereunder.
	12. Confidential Information does not include information which:
		1. is or becomes public other than by breach of this Agreement;
		2. was known to the receiving Party before this Agreement without breach of confidence;
		3. is independently developed by or becomes available to the receiving Party,
		4. is required to be disclosed by law or regulatory authority; or
		5. is received from a third party without any restriction upon confidentiality.
	13. Confidential Information may not be copied, unless for the express operation of this Agreement.
	14. All Confidential Information disclosed by a Party shall either be returned to it by the other Party or destroyed at the option of the disclosing Party within thirty days of a receipt of a written request from the disclosing Party.
	15. Neither Party shall discuss with any person employed or engaged by the other or its agents, in relation to the performance of this Agreement, the terms of its engagement and shall use all reasonable endeavours to ensure that this provision is observed by its own employees, representatives and agents.
	16. The Confidential Information shall be used only in the manner and for the purposes reasonably to be inferred from this Agreement.

# **LIABILITY**

* 1. To the maximum permitted by law, the Company’s aggregate liability arising out of or related to this Agreement, whether in contract, tort or under any other form of liability shall not exceed fifty percent (50%) of the sums due to the Company from the Client under this Agreement.
	2. To the maximum permitted by law, the Company shall not be liable to the Client for any damage that does not result from a proven fault on the part of the Company, including lost profits, loss of use, loss of data, loss of file, operational losses, commercial losses, loss of business or anticipated savings, costs of procurement of substitute services or any indirect, special, incidental, punitive or consequential damages, however caused, whether in contract, tort or under any other liability, and whether or not the Company has been advised of the possibility of such damage.
	3. To the maximum permitted by law, all implied terms and warranties are hereby excluded and the Parties agree to be bound solely by the terms and warranties set out in this Agreement.
	4. Except for actions for breach of a Party's Intellectual Property Rights or confidentiality, no action (regardless of form) arising out of this Agreement may be commenced by either Party more than two years after the cause of action accrued.
	5. Each Party will indemnify and hold harmless the other Party (the “Indemnified Party”) from and against any and all claims, demands, proceedings and judgements made against the Indemnified Party (and any costs and expenses incurred by the Indemnified Party with the prior written approval of the indemnifying Party in connection therewith) in respect of any infringement or alleged infringement by the indemnified Party of any Intellectual Property Rights of a third party arising directly or indirectly out of the use by the indemnified Party in accordance with the terms of this Agreement or any information or data (including without limitation proprietary information) or Intellectual Property Rights provided or licensed hereunder to the Indemnified Party by the indemnifying Party. The foregoing indemnity shall only apply if:
		1. the other Party informs the Indemnifying Party promptly of any such claim, demand, proceeding or judgement which has come to the notice of the other Party and refrains from taking any action in respect of such claim, demand, proceeding or judgement without the prior written approval of the indemnifying Party such approval not to be unreasonably withheld or delayed; and
		2. the Indemnified Party places the entire direction and control of any claim, demand, proceeding or judgement in the hands of the Indemnifying Party (save that the Indemnifying Party will consult with and take into account all reasonable requirements of the Indemnified Party and will fully cooperate with the indemnifying Party in the defence or settlement thereof.
	6. The Client acknowledges and agrees that it remains solely responsible for any decision regarding the use, interpretation, and/or exploitation of the Services provided by the Company. In this regard:
		1. The Company shall not be held liable, whether expressly or implicitly, for any use, interpretation, and/or exploitation of the Services by the Client or by any third party, regardless of their identity.
		2. No claim shall be accepted by the Company in respect of any damage caused to the Client or to any third party as a result of such use, interpretation, and/or exploitation.
	7. Nothing in this Agreement shall purport to exclude or limit any liability of either Party for death or personal injury caused by its negligence or for fraud or any fraudulent misrepresentation.

# **COMPLIANCE WITH REGULATIONS**

* 1. Anti-corruption and Influence peddling
		1. General conditions:

Throughout the commercial relationship, the Parties undertake to:

* + 1. To always act in accordance with national and international laws and regulations applicable to the detection and prevention of risks of corruption and influence peddling, and in particular the UK Bribery Act 2010 to the extent applicable to the Parties bound these GTCs (the “Anti-corruption Laws”);
		2. No undue pecuniary advantage or other benefit of any kind whatsoever (including, but not limited to, gifts, entertainment or special favours) has been directly or indirectly offered, promised, given, authorised, solicited or accepted in connection with the Agreement, by the Parties and in particular by their directors, shareholders, officers or employees (hereinafter ‘Servants’) or any other person or company acting on their behalf, as at the date of entry into force of the Agreement;
		3. To ensure that no public official has been offered, promised, arranged or paid, directly or indirectly, anything of value (including, but not limited to, money, gifts, hospitality, entertainment or any special favours), for the purpose of improperly inducing that person to perform or fail to perform his or her official duties, or to assist any Party in obtaining or retaining business or securing for itself any improper advantage;
		4. Not to offer or make facilitation payments;
		5. To have put in place a compliance programme that meets the requirements of the Anti-corruption Laws, insofar as it is subject to it.
		6. To include obligations that are at least as binding in any other agreement binding them to any natural or legal person as a result of its involvement in the Agreement.
		7. Non-Compliance:

The Parties hereby agree that if, in relation to this Agreement, a Party is found guilty of, or admits to, or enters into a settlement relating to, in each case, granting or receiving an Improper Benefit further to legal proceedings under any Applicable Legislation in respect of an Improper Benefit, the other Party may terminate all or part of this Agreement without any liability towards the first Party.

Each Party undertakes that it will not, until such time as all of such Party’s obligations hereunder have been discharged in full, pay, give, offer or receive or agree to pay, give, offer or receive any Improper Benefit.

* + 1. Audit and Compliance:

The Parties undertake to cooperate with each other in the event of an investigation by a supervisory authority or any other competent authority, and to provide any information or assistance required in connection with such investigations.

* + 1. Penalties:

Compliance with these obligations is an essential obligation of the Contract. In the event of non-compliance, the Parties may:

* + 1. be indemnified by the Party failing to comply with its obligations for any claim, loss, damage, costs or liability resulting directly or indirectly from such non-compliance.
		2. applying the provisions of Article 20 Termination
	1. Personal Data: Each Party acts as the controller of the Personal Data collected and processed under this Agreement and undertakes to process them in compliance with the regulations in force applicable to the processing of personal data and, in particular, the provisions of the Data Protection Act 2018.
	2. Each Party is hereby informed that the information concerning the legal representatives, staff and contacts collected by the other Party may be subject to processing, whether automated or not, for which the latter acts as data controller. This processing is intended for the management and monitoring of the contractual and commercial relationship under this Agreement. It concerns general professional identification data such as the surnames, first names, functions performed and professional contact details of the Parties' contacts. This data will be kept for the duration of the Agreement and for the applicable limitation periods. Each party undertakes to transmit all the information provided for in Articles 13 and 14 of the GDPR to its employees and other data subjects whose personal data may be processed under this Agreement.
	3. Export control: The Parties agree that in disclosing and/or transmitting Confidential Information, they will fully comply with the relevant laws and regulations of the United Kingdom, as well as those of the United States, the European Union and any other applicable jurisdictions, relating to export controls, sanctions and embargoes. The Parties acknowledge that any diversion or misuse of such Confidential Information in violation of these regulations is strictly prohibited.
	4. Prior to any disclosure and/or transmission of Confidential Information to the Receiving Party, the Disclosing Party shall undertake a thorough prior analysis to determine whether any export control restrictions apply to such Confidential Information.
	5. Thus, if the Confidential Information disclosed and/or transmitted to the Receiving Party is subject to export control , then the Disclosing Party shall (i) complete all necessary formalities prior to disclosure and/or transmission to the Receiving Party, and (ii) inform the Receiving Party of any relevant requirements, constraints and limitations applicable to the Confidential Information.
	6. In turn, the Receiving Party undertakes to :
		1. Refrain from transferring or exporting Export Controlled Confidential Information to any third party including any foreign individuals employed by, associated with the Receiving Party's business, without obtaining the applicable export licence or exemption as provided by the Disclosing Party, and ;
		2. comply with additional security requirements regarding Export Controlled Confidential Information when provided by the Disclosing Party.
	7. The Receiving Party further warrants, without limitation as to time, that the Confidential Information will not be exported or otherwise transmitted outside the country for which such Confidential Information is intended, without the prior written consent of the Disclosing Party, for the purpose of complying with any applicable laws and regulations governing the export of war materials.
	8. Classified information: Any Confidential Information which may be disclosed by the Parties under this Agreement and which falls within the category of Classified Information shall be identified as such by the Disclosing Party at the time of such disclosure, and the disclosure, protection and use of such Confidential Information shall be carried out in accordance with the security procedures prescribed by the applicable authorities.

#  **FORCE MAJEURE**

* 1. Force Majeure refers to an event or sequence of events beyond a Party's reasonable control that prevents or delays the Party from performing its obligations hereunder. Inability to pay is not Force Majeure.
	2. A Party shall not be liable to the other Party if delayed in or prevented from performing its obligations under this agreement due to Force Majeure, provided that the affected Party:
		1. promptly notifies the other of the Force Majeure event; and
		2. uses reasonable endeavours to minimise the effects of that event.
	3. If, due to Force Majeure, the affected Party:
		1. is, or is likely to be, unable to perform a material obligation, or
		2. is, or is likely to be, delayed in or prevented from performing its obligations for a continuous period of more than sixty (60) days,
	4. The affected Party may terminate this Agreement on service of notice to the other Party such termination to take effect on the date specified in the notice.

# **INSURANCE**

* 1. The Company shall effect and maintain with a reputable insurance company or companies all policies of insurance required by law.
	2. The Company will on written request from the Client provide the Client with evidence of such insurance policies.

# **TERMINATION**

* 1. The Parties agree that a Serious Breach (as defined below) by either Party entitles the nonbreaching Party to terminate this Agreement in whole or in part immediately, without legal formalities or prior notice. The following circumstances shall constitute serious breach (hereinafter “Serious Breach”) and therefore grounds for immediate termination:
		1. a violation of the confidentiality obligation set out in this Agreement;
		2. failure to comply with the provisions related to Intellectual Property,
		3. serious breach by the Party of its legal and regulatory obligations, including those related to employment law, export control, compliance, and anti-money laundering,
		4. if the other Party becomes insolvent within the meaning of the Insolvency Act 1986 or any amendment thereto, or has a winding up order made against it, or passes a resolution to wind up, or enters in to any arrangement with its creditors, or passes a resolution to cease trading or actually ceases trading, or
		5. if the other Party is in material breach of any of the terms of this Agreement and either the breach is incapable of remedy or the breaching Party has failed to remedy the breach within thirty (30) Business Days of receipt of a written notice specifying the breach and requiring its remedy.
	2. Failure by the Client to make payment in accordance with Article 8 shall be deemed to be a material breach that is capable of remedy.
	3. This Agreement shall terminate without any action on the part of either Party upon the payment of all Fees together with any interest (where relevant) in respect of the Services.

# **NON-SOLICITATION**

* 1. Without the prior written consent of the Company, the Client shall not, during the term of this Agreement and for a period of one (1) year following its expiry or termination, directly or indirectly:
		1. Employ (except by responding independently to a public recruitment advertisement) any of the Company’s employees; or
		2. Enter into an agreement for the provision of services, on a self-employed basis, with any person who has, within the previous one (1) year, been an employee of or supplier to the Company and was engaged in this Agreement.If the Client breaches this Article, it shall pay to the Company a referral fee equal to twenty percent (20%) of the annual salary plus any other benefits of the person concerned. The Parties acknowledge that this sum represents a genuine pre-estimate of the loss likely to be suffered as a result of such a breach.

# **ASSIGNMENT AND SUBCONTRACTING**

* 1. Neither Party may assign or subcontract any right or obligation under this Agreement, in whole or in part without the prior written consent of the other Party.

# FURTHER **ASSURANCE**

* 1. Each Party will, at its own cost, perform all further acts and execute all further documents necessary to give effect to this Agreement.

# NOTICES

* 1. All notices under this Agreement shall be in writing, sent by hand, email to the designated point of contact in the Agreement or first class special delivery or recorded delivery to the Party being served at its address specified above or at such other address of which such Party shall have given notice as aforesaid, and marked for the attention of that Party's signatory of this Agreement. The date of service shall be deemed to be two (2) Business Days following the day on which the notice was transmitted or posted as the case may be.

# **RELATIONSHIP**

* 1. The Company shall at all times during the term of the Agreement be an independent contractor and nothing in this Agreement shall be construed as creating at any time the relationship of employer and employee between the Client and the Company or between the Client and any of the Company’s employees.
	2. Neither the Company nor any of its employees shall at any time hold themselves out to be directly employed by the Client nor shall the Company or any of its employees any representation or commitment or incur any liability on the Client’s behalf.
	3. Neither the Company nor any of its employees shall be entitled to any of the benefits provided by the Client to the Client’s employees save for any such benefits which are expressly set forth within this Agreement.
	4. The Client shall not be liable for and shall not pay any income tax, national insurance or other Government levies payable resulting from the provision of the Services.

# MISCALLENOUS

* 1. **THIRD PARTY RIGHTS** - This Agreement is not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.
	2. COSTS - Each Party is responsible for its own legal and other costs in relation to this Agreement.
	3. **SURVIVORSHIP** - To the extent that any Clause is intended to have effect following termination of this Agreement, such Clause shall survive and continue in effect notwithstanding termination. The following Articles are an illustrative but not exhaustive list of such Articles 14, 15,16, 17 and, 21. Termination of this Agreement, for any reason, will not affect the accrued rights and obligations of the Parties as at the date of termination, including the right to recover damages against the other or remit payment for sums incurred prior to the date of termination.

# VARIATION - Variations to this Agreement will only have effect if in writing and signed by the Parties' authorised representatives.

# SEVERABILITY - The unenforceability of any part of this Agreement (including any Article or Clause) will not affect the enforceability of any other part (including any Article or Clause).

# WAIVER - Unless otherwise agreed, no delay, act, omission or partial exercise by either Party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy. Consent by a Party, where required, will not prejudice its future right to withhold a similar consent.

# COUNTERPARTS - This Agreement may be signed in any number of separate counterparts. Each, when executed and delivered by a Party, will be an original and all counterparts will constitute one instrument.

# ENTIRE AGREEMENT - This Agreement together with the Offer Letter and the Purchase Order constitutes the entire agreement and understanding between the Parties in respect of the Services and supersedes all previous agreements, understandings and undertakings in such respect. The Client may not rely on any representation or statement made by the Company or its representatives (whether negligently or innocently), which has not been expressly included in this Agreement or the Offer Letter.

# **DISPUTE RESOLUTION**

* 1. If any dispute arises out of this Agreement the Parties will attempt to settle it by negotiation. In the event of any dispute, difference or question of interpretation arising between the Parties, neither shall take recourse to any other resolution (whether by reference to mediation as set out in this Article or by litigation), until the escalation procedure has been fully exercised.
	2. If the Parties are unable to settle any dispute in accordance with Clause 31.1 above within twenty-one (21) business days, the Parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure (the model procedure).
	3. To initiate a mediation, a Party by its authorised representatives must give notice in writing (ADR notice) to the other Party (addressed to its authorised representatives) requesting a mediation in accordance with Clause 31.2. A copy of the request should be sent to CEDR.
	4. If there is any point on the conduct of the mediation (including as to the nomination of the mediator) upon which the Parties cannot agree within fourteen (14) days from the date of the ADR notice, CEDR will, at the request of any Party, decide that point for the Parties, having consulted with them.
	5. The mediation will start not later than twenty-eight (28) business days after the date of the ADR notice.
	6. Any Party, which commences court proceedings or arbitration, must institute mediation or serve an ADR notice on the other Party to the court proceedings or arbitration within twenty-one (21) Business Days.
	7. No Party may commence any court proceeding or arbitration in relation to any dispute arising out of the Agreement until they have attempted to settle it by mediation and that mediation has terminated.
	8. Disputes, differences or questions of interpretation shall, subject to the foregoing provisions of this Article, be subject to the exclusive jurisdiction of the English courts.

# **GOVERNING LAW AND JURISDICTION**

* 1. The interpretation, construction and effect of this Agreement shall be governed and construed in all respects in accordance with the laws of England and Wales and the Parties hereby submit to the exclusive jurisdiction of the English Courts.

**IN WITNESS WHEREOF** this Agreement has been signed on behalf of each Party by its duly authorised representative as of the day and year first above written.

##

| **For Airbus Protect**Name: Title: Date:Signature: | **For**Name:Title:Date:Signature: |
| --- | --- |