

General Terms and Conditions - Equipment and Software Sales

1. Agreement

- 1.1 These Terms and Conditions are the terms under which Morcan supplies Products and Services, and apply to all orders for the same. Morcan will not be bound by any order until it is accepted in writing by Morcan or, if earlier, the date on which the Products are despatched, at which point the Agreement shall come into existence. The Agreement overrides and excludes any other terms, including any terms stipulated, or purported to be incorporated or referred to by the Client (including in any of the Client's purchase order documentation), or in any negotiations and any course of dealing established between the parties, or otherwise. Morcan is not obliged to accept any order placed by the Client.
- 1.2 All quotations are deemed to be subject to these Terms and Conditions. Quotations shall be valid until the end of the month in which they are issued unless otherwise stated on the quotation. Morcan reserves the right to withdraw or amend any quotation or order at its discretion prior to the Agreement.
- 1.3 Morcan reserves the right to amend (including by increasing the Charges in respect of) or terminate the Agreement in respect of any Order in whole or part at any time following the Agreement where:
 - 1.3.1 Products or Services are withdrawn by the Supplier or manufacturer; or
 - 1.3.2 the Supplier increases the charges for Products or Services to Morcan; or
 - 1.3.3 specifications of Products or Services are varied by the Supplier or manufacturer; or
 - 1.3.4 Products or Services have been shown on Morcan's website or otherwise displayed or advertised with an incorrect price or with any other incorrect information; or
 - 1.3.5 there is any change in Law:
 - a. that results in an increase in the cost to Morcan of providing all or any of the Products or Services; or
 - b. such that Morcan is no longer entitled by law to sell all or any of the Products or Services ordered to the Client in the jurisdiction in which the same have been ordered or are to be delivered; or
 - c. the impact of the change or its implementation is such that tariffs, levies, taxes, imposts or duties or trade barriers are imposed upon or increased in respect of the sale, licensing or other transfer of all or any of the Products from the jurisdiction in or from which the same are manufactured or supplied to the jurisdiction in which they are ordered or are to be delivered; or
 - d. the impact of the change or its implementation is such that Morcan's ability to deliver all or any of the Products or Services is hampered or likely to result in any delay.

1.4 Save as provided in 3.1, and 9.3 the Client shall not be entitled to cancel or terminate any order for Product(s) or Services following the date of the Agreement.

1.5 Morcan is a business to business reseller. The Client represents and agrees:

- a. that it is buying the Products (and any Services) only for business purposes. Accordingly, as a business customer the Client accepts that purchases the Client makes from Morcan will not benefit from the statutory protection available to consumers under the Consumer Rights Act 2015 and other sale of goods/services Laws (to the maximum extent permitted by law); and
- b. that it is buying the Products for its own internal business purposes and not for resale.

2. Definitions

In the Agreement the following terms shall have the following meanings:

Agreement means the legally binding contract between the Client and Morcan comprising:

- a. the Order as accepted by Morcan (including any schedules or attachments);
- b. these Terms and Conditions;

and in each case as the same may be amended from time to time in accordance with its terms.

Subject to 4.1 each Order (including any schedules or attachments), together with these Terms and Conditions shall form a separate agreement between the parties.

Business Day means a day other than a Saturday or Sunday or bank or other public holiday in England and Wales.

Charges means the price, fees, charges, and expenses payable by the Client to Morcan under the Agreement in respect of the Products and any Services.

Client means the person identified as the Client on the Order.

Client Sites means any premises of the Client to which Products are to be delivered (and/or at which Services are to be carried out), or at which Products are located at any time.

Confidential Information means all data, information, and material in any medium or format relating to the business, products, customers, suppliers, licensors, employees, officers, finances, systems or affairs of the disclosing party or its Affiliates (including where Morcan is the disclosing party Morcan Know How) that is or has been (before, on, or after the date of the Agreement) disclosed by or on behalf of the disclosing party to the receiving party under or in connection with the Agreement, whether orally, electronically, in writing or otherwise (including by observation), including copies of such information.

Force Majeure Event means:

- a. acts of terrorism, civil war, riots or commotion, war, military action (or preparation for the same), imposition (or threat of imposition) of sanctions or embargo or a breaking-off of diplomatic relations;
- b. an epidemic or a pandemic;

- c. natural events or disasters of any kind including storms, lightning, flood, drought, other extreme weather conditions, earthquake/seismic activity;
- d. any law made or any action taken by any state, government or public authority (including revocation or refusal of licences or permissions);
- e. collapsing buildings, fire, explosion, malicious acts, vandalism or accident, failure or non-availability of public networks, electricity or other utilities, accident or breakdown of machinery, unavailability of supplies;
- f. any labour dispute, strike, industrial action or lockout; or
- g. any other cause, event or circumstance affecting the performance by Morcan of its obligations under the Agreement which is beyond its reasonable control.

Insolvency Event means in respect of any person:

- a. its bankruptcy or insolvency; or
- b. the taking of any step or action in connection with entering administration, provisional liquidation or any composition or arrangement with its creditors, being wound up (whether voluntarily or by order of the court), having a receiver appointed to any of its assets; or
- c. that person suspending, or threatening to suspend, or ceasing or threatening to cease to carry on all or a substantial part of its business; or
- d. any analogous step, event or procedure to those described in a. to c. above is taken or occurs in any jurisdiction in which it is established, resident or carries on business; or
- e. its financial position deteriorates to such an extent that in Morcan's opinion its capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy.

Intellectual Property Rights means any of the following rights:

- a. patents, trademarks, service marks, logos, trade dress, trade, business or domain names, and the right to sue for passing off;
- b. rights in designs, copyrights and related rights including rights in computer software, data and databases, topography rights;
- c. rights in inventions, know-how, trade secrets and other confidential information; and
- d. any other intellectual property or similar proprietary rights which may exist at any time in any part of the world.

In each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them, and where applicable any goodwill in any of the above.

Law means:

- a. any law, statute, regulation, by-law, ordinance or subordinate legislation in force from time to time;
- b. the common law as applicable to the parties to the Agreement from time to time;
- c. any binding court order, judgement or decree;
- d. any legally binding industry code or standard.

Morcan means Morcan Limited (registered in England no. 04205110) of 3rd Floor, 86-90 Paul Street, London EC2A 4NE or such Affiliate of Morcan Limited as is shown as the Morcan contracting entity on the Order.

Morcan Know How: means general ideas, working methodologies, general knowledge and experience, processes, techniques, tools or internal processes or systems, source code, systems, platforms, solutions, know-how, data, documents, reports, records, works of authorship or creative works, specifications, system concepts, designs, samples, models, plans, sketches or drawings or other materials which have been or are acquired or developed by or on behalf of Morcan or its Affiliates or their respective licensors before, on or after the date of the Agreement and any modifications, enhancements or derivatives of any of the same.

Published Software Specification means the relevant manufacturer's published product specification for the Software concerned.

Relief Event has the meaning given to that term in clause 14.

Order means the order for the Products, in such form as is accepted by Morcan, that includes details of the Products (and any Services) ordered by the Client and related pricing.

Products means the computer hardware, Software, or other equipment or other products to be supplied by Morcan as set out in the Order.

Services means installation, commissioning or other services related to the Products, in each case as described in the Order.

Software means all software (if any) to be supplied by Morcan to the Client under the terms of the Agreement and all documentation relating to any such software.

Supplier means any supplier of Products or Services to Morcan.

Taxes means all taxes, imposts, duties, levies, or fees of any kind payable to any governmental, fiscal or taxing authority in the United Kingdom or elsewhere and includes value added, sales and similar taxes. The definition of Taxes includes any penalties, additions, fines or associated interest. The words **Tax** and **Taxation** and similar expressions will be interpreted in accordance with this definition.

Third Party Software means all Software owned by a person other than Morcan (whether or not supplied by Morcan) and which is embedded or comprised in other Products, or which is supplied as a Product.

In the Agreement words denoting the singular include the plural and vice versa; words denoting any gender include all genders; references to a **month** means a calendar month, and **monthly** shall be interpreted accordingly; reference to a **person** includes a corporate or

unincorporated body (whether or not having separate legal personality); any reference to a statute, statutory provision, subordinate legislation or code of practice is a reference to that statute, statutory provision, subordinate legislation or code of practice as amended, modified or re-enacted from time to time; any reference to a regulatory body includes a reference to any successor or replacement regulatory body; and any phrase or list introduced by the words **including, includes, in particular** or **for example** or similar shall be construed as illustrative and shall not limit the generality of the related general words.

Writing or **written** includes email. Any reference to a **party** means a party to the Agreement and **parties** shall be interpreted accordingly.

3. Price Lists, Promotional Materials and Product Specification

- 3.1 Any samples, drawings, descriptive matter, illustrations, advertising or price lists issued by Morcan or the Supplier/manufacturer and any descriptions of the Products contained on websites or in Morcan's or the Supplier's/manufacturer's catalogues, brochures or other promotional/marketing materials are issued or published for the sole purpose of giving an approximate idea of the Products. They do not constitute contractual offers capable of acceptance and shall not form part of the Agreement. Products are subject to availability and may vary from those advertised. Prices shown in any such materials may be subject to change at any time prior to the entry by Morcan and the Client into a binding Agreement. Prices may be changed after the date of the Agreement in accordance with 1.3 of these Terms and Conditions. Morcan reserves the right to cancel or refuse orders for Products shown on websites or otherwise displayed or advertised with an incorrect price or with any other incorrect information. Where Morcan has made a mistake, or where after the date of the Agreement Morcan increases the total Charges payable in respect of the Order by more than 10% in accordance with 1.3, the Client will be given the option to : (a) cancel the Order in respect of the Products in respect of which the mistake has been made, or in respect of which the Charges are increased and obtain a refund of any sums paid in advance in respect of the same; and/or (b) place the order again or proceed with the order at the correct/increased price/on the correct terms.
- 3.2 Unless otherwise agreed in the Order, the Products are supplied in accordance with the manufacturer's standard product specifications. Morcan will use its reasonable endeavours to advise the Client of any variation for whatsoever reason in the manufacturer's specifications or technical data of the Products as soon as it receives any such notice thereof from the manufacturer or Supplier. Morcan will not be liable in respect of any loss or damage caused by or resulting from such variation, including for curtailment or cessation of supply of Products following any such variation.
- 3.3 If any Products are to be manufactured in accordance with a specification supplied by the Client, the Client shall indemnify Morcan and its Suppliers and manufacturers and hold them harmless in respect of (and shall pay on demand) all direct, indirect or consequential liabilities, costs, expenses, damages and losses of whatever nature (including all interest, penalties, legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Morcan or any such person arising out of or in connection with any claim made against Morcan or any such person for actual or alleged infringement of a third party's Intellectual Property Rights as a result of or in connection with Morcan's or any such person's access to, use, or exploitation of such specification.

- 3.4 The Client is solely responsible for deciding before ordering if the Products and Services are suitable for the Client's needs and purposes; Morcan does not accept any obligation or responsibility for that decision.

4. Delivery and Risk

- 4.1 Unless it is agreed otherwise in writing by Morcan and the Client delivery shall be to the Client's address as specified in the Order. Delivery of the Products shall be completed on the completion of unloading of the Products at the delivery address. Morcan may deliver the Products by instalments, which may, if required by Morcan, be invoiced and paid for separately. Each instalment shall constitute a separate Agreement. Any delay in delivery or defect in an instalment shall not entitle the Client to cancel any other instalment.
- 4.2 Any dates quoted for delivery of the Products or provision of any Services are approximate only, and the time of delivery/provision is not of the essence. Morcan shall not be liable for any delay in delivery or installation/commissioning of the Products or the provision of any Service that is caused by a Force Majeure Event or any Relief Event.
- 4.3 The Client shall provide Morcan with adequate delivery and access instructions. The Client shall in each case at no cost to Morcan and in a timely manner:
- a. act in accordance with all reasonable instructions issued by Morcan, co-operate with Morcan in all matters relating to the Products and any Services, provide such information and assistance as Morcan may reasonably request in relation to the supply of the Products and Services (including as required by Morcan for the purpose of obtaining any necessary authorisations under the export control Laws of the United States, EU and national Laws) and shall keep Morcan informed of any special legal or other requirements applicable to the provision of the Products or Services to the Client;
 - b. complete any preparation activities set out in the Order or that Morcan may otherwise request to enable the Client to receive the Products and Services;
 - c. provide such access to the Client's personnel, premises, and such facilities (including appropriate security/access passes) as may reasonably be requested by Morcan, for the purposes of providing the Products and any Services, including access to enable delivery by or on behalf of Morcan or, on termination of the Agreement for any reason, or in the circumstances described in clause 6, to remove Products from any Client Sites. The Client shall not deny Morcan or any third party access to any Client Sites in such circumstances (even where the parties are in dispute);
 - d. without limiting any of a) to c) above provide and maintain, at its own expense, the level of power (including necessary fittings and installations), heating, air conditioning, communications and systems/facilities/utilities necessary to maintain the proper environment for any Products located at the Client Sites;
 - e. obtain and maintain all permissions, consents, approvals, certificates, licences and authorities (of whatever nature) necessary for the delivery, receipt, installation and use of the Products and Services;

- f. ensure that a safe working environment is provided for all Morcan personnel and those of its contractors and suppliers while on site at any Client Sites. The Client shall notify all such personnel in advance of applicable health and safety and security policies and procedures. The Client shall indemnify and hold Morcan harmless in respect of (and shall pay on demand) all losses, costs, claims, actions, liabilities and expenses (including legal and other advisers' fees) of any nature that may be suffered or incurred by Morcan or any of its contractors or suppliers or their respective personnel as a result of (i) any death or personal injury; or (ii) any loss, damage or destruction to Morcan's (or any of its suppliers/licensors/contractors') premises, equipment or other property caused by the Client or its employees, or its other personnel, contractors or representatives, or by Client equipment or Client Sites.
- 4.4 At the time of delivery the Client must check that the quantity of Products matches the quantity set out on the proof of delivery ("POD") and that the exterior of the Products are in good condition. The Client must then indicate this on the POD and sign the POD accordingly. If an over shipment of the Products has occurred the Client must also notify Morcan as soon as possible and in any event within three Business Days of the delivery. A signed POD by or on behalf of the Client, or signing the POD "unchecked" or "unexamined" or any such similar wording, shall be conclusive evidence of delivery and (except to the extent that any damage or discrepancy is noted on the POD) that it was received in good order and condition and accordingly no claims shall be bought in respect of the delivery claiming the contrary. The Client must inspect the Products immediately after delivery is complete. If any Products are damaged, incorrect or not delivered, the Client must notify Morcan within 3 Business Days of the delivery date (or expected delivery date for non-deliveries). For the avoidance of doubt, the Client is still required to notify Morcan as set out in this Clause 4.4 notwithstanding anything noted by the Client on the POD. If the Client fails to notify within such period it shall be deemed to have accepted delivery in accordance with the Contract and the Client shall not be entitled to raise any claim of short or mis-shipment or damage to the Products.
- 4.5 If the Client fails to accept delivery of the Products within three Business Days of Morcan notifying the Client that the Products are ready for delivery, then except where such failure or delay is caused by a Force Majeure Event or by Morcan's failure to comply with its obligations under the Agreement in respect of the Products, delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Morcan notified the Client that the Products were ready for delivery. Morcan shall be entitled to arrange for storage of the Products until delivery takes place, and charge the Client for all related costs and expenses (including insurance). The Client shall indemnify and hold Morcan harmless in respect of (and shall pay on demand) all fees, costs, expenses and liabilities that may be suffered or incurred by Morcan (including any amounts payable to its Suppliers) as a result of refusal or failure by the Client to accept delivery of Products on the delivery date notified by Morcan.
- 4.6 The risk in the Products shall pass to the Client at the time the Products are handed over to the transportation company at the Supplier's (or where delivery is direct from the manufacturer the manufacturer's) premises. Morcan recommends that the Client has appropriate insurance cover for the Products from the point at which risk passes.

5. Quality of Products

5.1 Subject to 11.2 Morcan gives no warranty to the Client in respect of any Product that is purchased by Morcan from a Supplier for resale to the Client but shall take reasonable steps to assist the Client in making available claims under Supplier or manufacturer product warranties, subject to compliance by the Client with any warranty terms as provided by the Supplier/manufacturer. Morcan will accept returns of faulty Products notified to Morcan within 14 days of delivery, subject to the terms of the relevant Supplier's/manufacturer's warranty. After 14 days the Client will need to deal with the manufacturer directly. All returns of Products can only be made if they comply with the following:

- a. Prior authorisation for return must be obtained from Morcan. The Client should use the contact details shown on the Order for this purpose;
- b. The Products in issue must be returned within 5 days of the authorisation to return under 5.1(a);
- c. The Products must be properly packed and delivered to the return address notified by Morcan on DDP Incoterms 2010, together with any forms or information and in accordance with any procedure notified by Morcan;
- d. The Goods must still be covered by the relevant Supplier's/manufacturer's warranty. The following (non-exhaustive) list of examples are all likely to invalidate or give rise to the loss of benefit of Supplier/manufacturer warranties: Use of products after notification under 5.1(a); failure to follow Supplier/manufacturer instructions as to storage, installation, commissioning, use or maintenance; unauthorised alteration or repair; fair wear and tear, wilful damage, negligence, abnormal working conditions, or defects arising as a result of Client's design or instructions.

Morcan reserves the right to test (or permit testing of) all Products returned as faulty and to return to the Client (at the Client's expense) any Products found not to be faulty, or ineligible for repair, replacement or refund under applicable Supplier/manufacturer's warranties.

5.2 All Products supplied which are Software are only supplied "as is". The sole obligation of Morcan in connection with the supply of Products which are Software is to use reasonable endeavours to obtain and supply a corrected version from the Supplier concerned in the event that such Software should fail to conform to the Published Software Specification, provided always that the Client notifies Morcan of any such non-conformity within 30 days of the date of delivery of the applicable Software Products.

6. Title

6.1 Subject to clause 12 title to the Products shall pass to the Client in accordance with this clause 6. Morcan's rights under this clause 6 are without prejudice to any other rights or remedies available to Morcan, and notwithstanding any reservation of title Morcan shall have the right to recover any unpaid Charges.

6.2 Notwithstanding delivery and the passing of risk in the Products, or any other provision of the Agreement, legal and beneficial title to the Products shall not pass to the Client

until Morcan has received in cleared funds payment in full of the Charges for the Products and any other goods supplied by Morcan and the Client has paid all moneys owed to Morcan, regardless of how such indebtedness arose.

- 6.3 Until payment has been made to Morcan in accordance with the Agreement and title in the Products has passed to the Client, the Client shall be in possession of the Products as Bailee for Morcan and the Client shall:
- a. hold and maintain the Products for Morcan with due care and diligence and ensure that they are serviced and maintained by a reputable maintenance provider recognised by Morcan;
 - b. store the Products on a Client Site separately and in an appropriate environment;
 - c. ensure that they are identifiable as being supplied by Morcan;
 - d. not remove, delete, modify or tamper with any serial numbers, model numbers or other means of identification; and
 - e. insure the Products fully on Morcan's behalf against damage by fire, theft, water and third party risk and all other risks.
- 6.4 The Client shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain Morcan's property, but if the Client does so all money owing by the Client to Morcan shall (without prejudice to any other right or remedy of Morcan) immediately become due.
- 6.5 Morcan reserves the right to repossess any Products in which Morcan retains title without notice. The Client irrevocably authorises Morcan to enter any Client Site or other premises during normal business hours for the purpose of repossessing the Products in which Morcan retains title and inspecting the Products to ensure compliance with the storage and identification requirements of this clause 6. Morcan shall be entitled to remove and destroy any Client or other data or Confidential Information contained in or stored on the Products.
- 6.6 The Client's right to possession of the Products in which Morcan maintains legal and beneficial title shall terminate immediately if any act, event, or circumstance occurs which would entitle Morcan to terminate the Agreement (including under clause 8), or if the Client breaches any of the provisions of this clause 6. In the event of seizure or attempted seizure of any of the Products by third parties, the Client must make Morcan's ownership known and notify Morcan immediately in writing.

7. Charges and Payment

- 7.1 The Client shall pay the Charges in accordance with the Agreement. Unless otherwise specified in the Order the payment currency is British Pounds (GBP). Morcan reserves the right to issue and send invoices to the Client in an electronic format, and the Client accepts to receive invoices electronically, including receipt of invoices by e-mail.
- 7.2 Except as provided otherwise in the Order, Charges for Products shall be due and payable at the time of Order or in advance of delivery, as notified by Morcan. All Charges are quoted exclusive of Taxes, which shall be payable in addition by the Client at the same time as the charges to which they relate. Unless otherwise stated in the

Order the prices for Products shall be exclusive of all costs and charges of packaging, insurance, transport of the Products, which shall be invoiced to and payable by the Client as additional Charges.

- 7.3 The Client shall pay each invoice in full and in cleared funds via the payment methods approved by Morcan, without any deduction, set off or withholding. It is Morcan's policy not to accept cash and cheques as a method of payment for Products or Services. If Morcan accepts payment by credit or debit card, or other payment card/token the card/token used to pay Morcan must be issued to Client and not to any individual deemed a consumer, and Morcan reserves the right to charge fees to the Client for card payments to the extent permitted by Law.
- 7.4 If the Client fails to make any payment due to Morcan under the Agreement by the due date for payment, then, without limiting Morcan's other remedies Morcan may charge (and the Client shall pay) compensation, and daily interest on late payments in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 for the period beginning on the date on which payment is due and ending on the date payment is actually made (unless and then only to the extent otherwise prohibited by law). Additionally, the Client agrees to reimburse Morcan on demand for reasonable costs incurred in connection with the recovery and collection of any unpaid amounts under the Agreement, including legal and other advisers' fees and court costs.

8. Compliance with Laws and Safety

- 8.1 The Client shall comply with all Laws applicable to the purchase, receipt, use of, or otherwise relating to the Products and Services provided under the Agreement, including the Bribery Act 2010 and all other applicable Laws relating to anti-bribery and anti-corruption.
- 8.2 Any personal data that Morcan obtains from or about the Client in connection with the Agreement or related negotiations or discussions shall be subject to Morcan's Privacy Policy. The Client shall be solely responsible for the integrity, legality and accuracy of any personal data or other data provided to Morcan and shall ensure that Morcan has the right to process such data for the purpose for which it was provided. The Client acknowledges that Morcan may monitor or record telephone calls for training and security purposes.
- 8.3 Without limiting 8.1 the Client acknowledges and agrees that the Products and Services are subject to the export control Laws of the United States, EU, United Kingdom and other national Laws. The Client will comply with all these Laws including the Export Administration Regulations ("EAR"), and sanctions regimes of the U.S. Department of Treasury, Office of Foreign Asset Controls. The Client shall not, without Morcan's prior written approval (and then only with appropriate government authorisation), export, re-export, or transfer any Products or Services, either directly or indirectly, to any country subject to a U.S. trade embargo or to any resident or national of any such country, or to any person or entity listed on the "Entity List" or "Denied Persons List" maintained by the U.S. Department of Commerce or the list of "Specifically Designated Nationals and Blocked Persons" maintained by the U.S. Department of Treasury or any other comparable European, UK or other local regulation. In addition, any Products or Services may not be exported, re-exported, or transferred to any person engaged in

activities related to weapons of mass destruction. Such activities include but are not necessarily limited to activities related to: (1) the design, development, production, or use of nuclear materials, nuclear facilities, or nuclear weapons; (2) the design, development, production, or use of missiles or support of missiles projects; and (3) the design, development, production, or use of chemical or biological weapons.

9. Suspension and Termination

- 9.1 Without prejudice to any of its other rights or remedies Morcan may immediately by notice to the Client restrict or suspend any deliveries of Products and/or suspend any of the Services, without any liability to the Client, during any period during which any overdue sums are due to it from the Client. Morcan shall have no liability or responsibility to the Client or otherwise whatsoever for, or for any consequences of, such suspension, in respect of which the Client hereby indemnifies Morcan. Following any suspension for non-payment under this clause 9.1, Morcan is not required to reinstate deliveries or Services to the Client until the Client has paid in full all Charges then due, including any late fees, interest charges, collection costs and any cost of reinstating the deliveries and/or Services. Morcan shall have the right to charge for any extra expenses or additional work resulting from such suspension, which shall be for the Client's account. Morcan may (at its discretion), as a condition of lifting any suspension, require payment in advance by the Client of all or any Charges not yet due for payment or invoiced in respect of the Products and Services.
- 9.2 The Client shall remain liable to pay the Charges during any period of suspension pursuant to clause 9.1.
- 9.3 Either party may terminate the Agreement with immediate effect by written notice to the other:
- a. if the other materially breaches its obligations and (if such breach is capable of remedy) does not remedy that breach within 30 days after receipt of written notice from the other party to remedy such breach; or
 - b. if an Insolvency Event affecting the other party occurs.
- 9.4 Morcan may terminate the Agreement in whole or part with immediate effect by written notice to the Client if:
- a. the Client breaches clause 6, 8, or 12;
 - b. any Charges or other sums payable by the Client are not paid on the due date and the Client does not remedy that breach in full within 7 days after receipt of written notice from Morcan to remedy the same; or
 - c. required to do so by a regulator or court order.
- 9.5 Termination of the Agreement shall be without prejudice to the accrued claims or rights of either party. Upon termination of this Agreement in whole or part by Morcan, Morcan shall be entitled to recover the Charges for all Products and Services (including for work in progress).
- 9.6 Upon termination of the Agreement for any reason:

9.6.1 the Client shall comply with its obligations and shall cooperate fully with Morcan in relation to the exercise of its rights under clause 6; and

9.6.2 each party shall immediately cease to use any Confidential Information of the other party and shall return, or (if and to the extent requested by the other party (but not otherwise) destroy or permanently erase all copies, at the other party's election, of that Confidential Information in its possession or control, save that it will be permitted to retain one copy of such part of the Confidential Information for the purposes of and for so long as required by any law or by judicial or administrative process or its legitimate internal compliance requirements.

9.7 The provisions of clauses 1, 3, 4.1, 4.2, 4.3(c) and (f), 4.4, 4.5, 4.6 and 5 to 18 (inclusive) shall survive the termination of the Agreement however arising.

10. Entire Agreement and Disclaimer of Warranties

10.1 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees to the fullest extent permitted by law that it shall have no claim or remedies in respect of any statement, representation, warranty, or assurance of any kind, whether statutory, express, implied or otherwise (including any implied warranty of merchantability, quality, fitness for a particular purpose or any representation, warranty or condition from course of dealing or usage of trade) that is not expressly set out in the Agreement. Save that this clause shall not apply to exclude or limit any liability for fraud or fraudulent misrepresentation.

11. Limitation on Liability

11.1 The limitations and exclusions in this clause 11 apply in respect of all claims, causes of action and liabilities (including any liability of a party for the acts and omissions of its employees, agents, subcontractors, suppliers and Affiliates) arising under or in connection with the Agreement or in respect of the Products or Services, whether arising in contract (including under indemnity), tort (including negligence), breach of statutory duty, restitution, misrepresentation, or otherwise.

11.2 Neither party excludes or limits its liability to the other:

- a. for death or personal injury caused by its negligence;
- b. for its fraud or fraudulent misrepresentation;
- c. for breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
or
- d. for any other liability to the extent that it cannot be limited or excluded by law.

11.3 Subject to clause 11.2 Morcan shall not in any circumstances be liable to the Client for any of the following losses or damages howsoever caused and even if such losses and/or damages were foreseen, foreseeable or known, or Morcan or the Client was advised of the possibility of them in advance:

- a. any indirect, special or consequential loss or damage; or

- b. any loss of business or business opportunity, loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of anticipated savings, loss of, damage to, or corruption of data, loss of or damage to reputation or goodwill, in each case whether such losses are direct, indirect or consequential.

11.4 Subject to Clauses 11.2 and 11.3, in no event shall Morcan's aggregate liability under or in connection with the Agreement or the Products or Services, in respect of all claims and liabilities, exceed the total Charges paid or payable under the Agreement. The Client acknowledges that the pricing of the Products and Services reflects the intention of the parties to limit Morcan's liability as provided in this clause 10 and that the provisions of this clause 11 are reasonable, given the other remedies offered under these Terms and Conditions.

12. Intellectual Property Rights

12.1 The Client acknowledges and agrees that all Intellectual Property Rights (and all title in and to the same) comprised in, or used on or in relation to the Products (including Software), or Services (including any Intellectual Property Rights created in the course of the Services) supplied under the Agreement, and all Intellectual Property Rights and other rights and title in Morcan Know How shall at all times and for all purposes vest and remain vested in Morcan, its Suppliers, manufacturers, licensors or Third Party Software owners (as applicable). The Client shall not alter, cover, or remove any reference to such Intellectual Property Rights on the Products.

12.2 The Client acknowledges and agrees that it shall not acquire any ownership, title or proprietary interest in any Software supplied by or on behalf of Morcan. The Client's right to access and use Software supplied by or on behalf of Morcan is a limited non-exclusive licence right subject to the terms and conditions of licence attaching to such Software. It is the Client's sole responsibility and the Client undertakes to comply with all such terms and conditions (including if so required the execution and return of a Third Party Software licence). The Client is hereby notified that failure to comply with such terms and conditions could result in the Client being refused a software licence or having the same revoked by Morcan or the owner/licensor and that the owner/licensor shall have the right to enforce such terms and conditions directly against the Client. The Client shall indemnify and hold Morcan harmless in respect of (and shall pay on demand) all claims, liabilities, losses, costs, damages, charges or expenses (including legal and other professional fees) of any nature that may be suffered or incurred by Morcan as the direct or indirect result of any breach by the Client of any such terms and conditions. No title to or ownership of Software Products licensed to the Client under the Agreement is transferred to the Client under any circumstances.

12.3 The Client undertakes not to translate, adapt, vary, modify, disassemble, decompile or reverse engineer the Products or any part of them (including any Software) in any manner without Morcan's prior written consent.

13. Governing Law

The Agreement shall be governed by and interpreted in accordance with English law. The parties hereby submit to the exclusive jurisdiction of the courts of England and Wales, but any order or judgement may be enforced by either party through the competent courts or authorities in any jurisdiction.

14. Force Majeure and Relief Events

14.1 Morcan shall not be liable for any delay or failure to perform its obligations under the Agreement due to any Force Majeure Event. The time for performance of its obligations shall be extended accordingly. Where a Force Majeure Event prevents or causes a delay in the delivery of the Products or any Services Morcan shall (without limiting its rights under 4.5) be entitled to notify the Client of the rescheduled date for delivery/performance. If a Force Majeure Event continues for a consecutive period of thirty (30) days, Morcan may terminate the Agreement by providing not less than fourteen (14) days written notice to the Client. On the expiry of this notice period, this Agreement shall terminate. Following termination, Morcan will have no further obligation or liability to the Client under or in respect of the Agreement.

14.2 If Morcan’s performance of any of its obligations under the Agreement is prevented, hindered or delayed by any act or omission of the Client, its agents, contractors, consultants, employees or representatives, or if any assumption contained in the Order is untrue or incorrect, or in respect of any consequences arising as a result of Morcan, or its personnel, agents, representatives, Suppliers, consultants or sub-contractors following the instructions of any of the Client’s personnel (each a **Relief Event**), Morcan shall not be liable for any costs, charges, liabilities, damages or losses sustained or incurred by the Client that arise directly or indirectly from such Relief Event and Morcan shall be relieved of its obligations to provide the Products and Services to the extent performance of such obligations is impeded by such events. Where a Relief Event prevents or causes a delay in the delivery of the Products or any Services Morcan shall (without limiting its rights under 4.5) be entitled to notify the Client of the rescheduled date for delivery/performance. Morcan shall be entitled to charge the Client and the Client shall pay as invoiced additional delivery and other Charges in respect of any such prevention or delay.

15. Notices

15.1 A notice given to a party under or in connection with the Agreement shall be in writing and sent to the party at the address set out in the Order or as otherwise notified in writing to the other party.

15.2 The following table sets out methods by which a notice may be sent and, if sent by that method, the corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Delivery by hand or courier.	at the time the notice is left at the address, save that if not delivered on a Business Day receipt is deemed to take place at 9.00 am on the next Business Day
Pre-paid first class post	9.00 am on the second Business Day after posting
Email	9:00am on the first Business Day after sending subject to receipt by the sender of confirmation of successful transmission
All references to time are to local time in the place of receipt	

16. Assignment and Subcontracting

16.1 The Client shall not be entitled to assign, novate, charge or otherwise encumber, or deal with any of its rights or obligations under the Agreement without Morcan's prior written consent. Morcan may by notice to the Client assign or novate all or any of its rights or obligations under the Agreement to any person.

16.2 Morcan shall be entitled at any time to sub-contract the performance of any of its obligations under the Agreement. The subcontracting of any obligation under the Agreement will not relieve Morcan of its obligations to the Client in respect of the performance of such obligations.

17. Confidentiality

17.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information of the other party received in connection with the Agreement, including any discussions or negotiations leading up to the same, except as permitted by 17.2.

17.2 Each party may disclose the other party's Confidential Information:

- a. to its employees, officers, representatives, subcontractors (and as regards Morcan its Suppliers and manufacturers) or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this Clause 17; and
- b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

17.3 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Agreement.

17.4 the obligations of the receiving party in respect of the other party's Confidential Information under this clause 17 shall not apply in respect of information which:

- 17.4.1 was known to the receiving party at the time of receipt from the disclosing party, so long as such information was not acquired directly or indirectly from the disclosing party;
- 17.4.2 is lawfully acquired from a third party who owes no obligation of confidence in respect of the information; or
- 17.4.3 is or becomes publicly known through no act or fault of the receiving party.

18. Miscellaneous

18.1 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a

provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

18.2 No person other than a party to the Agreement shall have any rights, under the Contracts (Rights of Third Parties) Act 1999 or otherwise, to enforce it save that any Morcan Affiliate may enforce any of the provisions of this Agreement directly on its own account, and any Supplier or manufacturer may, with the prior written authorisation of Morcan (but not otherwise) enforce the provisions of clause 3.3, 4.3, 8, or 12. The parties may amend or terminate the Agreement without the consent of any person who is not a party to it.

18.3 Save for any variation by Morcan made in accordance with the terms of the Agreement no variation of the Agreement shall be effective unless agreed in writing by both parties.

18.4 The parties are independent contractors. Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, or constitute any party the agent of the other party.

18.5 A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.