

## General Terms and Conditions of Contract for the Supply of Goods and/or Services to MetaspHERE Ltd (“MetaspHERE”)

1. **Definitions**
  - 1.1 In these terms and conditions:
    - a) “Contract” means these terms and conditions and the purchase order to which these terms and conditions apply
    - b) “Force Majeure Event” means an event or occurrence which could not be prevented or foreseen and which is beyond the reasonable control of the party and without its fault or negligence (excluding any industrial disputes such as lock outs, strikes)
    - c) “Goods” means the items (if any) which are the subject of the Contract
    - d) “Intellectual Property” means any patent, registered design, copyright, database right, design right, topography right, trademark, service mark, application to register any of the aforementioned rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual or industrial property right of any nature whatsoever in any part of the world
    - e) “Services” means the services to be supplied by the Supplier (if any) which are the subject of the Contract
    - f) “Supplier” means the person, firm or company with whom the Contract is made
  2. **Terms and Conditions**
  - 2.1 These terms shall prevail over the Supplier’s terms and conditions. No terms or conditions endorsed upon, delivered with or contained in any quotation, acknowledgement, acceptance of order, invoice or similar document will form part of any contract for the sale and purchase of the Goods or Services
  3. **Offer and Acceptance**
  - 3.1 All quotations or estimates given by the Supplier verbally or in writing shall constitute and offer. Acceptance may be made by MetaspHERE issuing a purchase order number.
  4. **Time of Delivery or Performance**
  - 4.1 Any time for delivery or despatch of Goods or completion of Services agreed between the parties in writing shall be of the essence.
  - 4.2 Prior to the date(s) for delivery of any Goods or performance of the Services, MetaspHERE (acting reasonably) may alter such date(s), quantities and type of Goods, places for delivery and/or details of the Services upon giving the Supplier reasonable notice in writing. If any such alteration affects the price agreed for the Goods and/or Services, the Supplier shall promptly notify MetaspHERE.
  5. **Statutory Obligations**
  - 5.1 The Supplier shall comply with all relevant UK and EU legislation, rules, regulations, by-laws, codes of practice and directives relating to the supply of the Goods or Services hereunder.
  - 5.2 The Supplier shall be responsible for the safety of all its staff on MetaspHERE premises or sites. The Supplier shall co-operate with MetaspHERE staff and comply with all reasonable instructions whilst at MetaspHERE sites.
  6. **Price and Payment**
  - 6.1 The prices quoted shall be net of Value Added Tax. All Goods shall be delivered carriage and duty paid and customs cleared to the relevant delivery address.
  - 6.2 The Supplier shall submit an invoice for the Goods, upon receipt of the Goods, and for the Services, upon proper completion of the Services. The invoice shall include all necessary information including the purchase order number.
  - 6.3 MetaspHERE shall have no liability to pay for the Goods and/or Services supplied unless the Supplier shall invoice MetaspHERE within 12 months of the date of the invoice set out in Clause 6.2.
  - 6.4 Payment will be made by the end of the calendar month following the calendar month in which a correctly raised invoice is received at the invoice address given in the Contract.
  - 6.5 Payment shall not operate as a waiver of any of the rights of MetaspHERE hereunder.
  - 6.6 All payments shall be payable and made in pounds sterling.
  7. **Termination**
  - 7.1 Any order hereunder may be terminated by written notice forthwith:
    - a) by either party if the other commits any material or persistent breach of these terms and, where capable of remedy, fails to remedy the same within 28 days;
    - b) by either party if the other becomes bankrupt or insolvent or any receiver or administrator or similar person is appointed in respect of that party or enters into any arrangement with its creditors;
    - c) by either party if they reasonably believe that any of the events mentioned in Clause 7.1 (b) above is about to occur and notifies the other party accordingly;
    - d) by MetaspHERE if the Supplier ceases or threatens to cease to carry on business; or
    - e) by MetaspHERE, if the Supplier fails to deliver or despatch the Goods or complete the Services in accordance with the Contract.
  - 7.2 MetaspHERE shall have the right at any time and for any reason to terminate any order in whole or in part by giving the Supplier not less than 28 days written notice whereupon all work shall be discontinued and MetaspHERE shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of profits or any consequential loss.
  8. **Consequences of termination**
  - 8.1 Termination is without prejudice to the rights, duties and liabilities of either party which accrued prior to termination.
  - 8.2 In the event of termination, MetaspHERE shall have the right to enter upon the Supplier’s premises and remove any items that are the property of MetaspHERE.
  - 8.3 Any terms which expressly or impliedly have effect upon or after expiration or termination shall continue to be enforceable notwithstanding expiration or termination.
  - 8.4 Within 7 days of any termination hereunder, both parties shall return all documents, information, computer disks and material (and all copies thereof) provided to or prepared by it pursuant to this Contract and shall certify in writing that they have complied with this Clause.
  9. **Indemnities and Liability**
  - 9.1 Neither party shall have any liability to the other party in Contract, tort or otherwise in respect of any indirect or consequential loss or damage that may be suffered by that party.
  - 9.2 Subject to Clause 9.1 above, the Supplier shall at its own expense keep MetaspHERE and any of its staff or agents fully indemnified against any claim, demand, loss or liability arising by reason of any negligent act or omission of the Supplier, his employees or agents which is:
    - a) caused either to (i) any property of MetaspHERE or its staff or agents or (ii) any injury or death sustained by the staff or agents of MetaspHERE;
    - b) made against or incurred by MetaspHERE or any agent of MetaspHERE in respect of any loss, damage, injury or death sustained by any third party;
    - c) made against or incurred by MetaspHERE or its agent in respect of any loss of, or damage to, (i) any property or (ii) any injury or death sustained by the Supplier or its personnel unless such loss, damage or injury is caused by the negligent act or omission of MetaspHERE or any of its staff, subcontractors or agents other than where such loss, damage or injury is solely caused by the negligent act or omission of MetaspHERE or any of its staff or agents.
  10. **Confidentiality and Publicity**
  - 10.1 Each party shall treat as confidential all information obtained from the other pursuant to this Contract and shall not divulge such information to any person (except to such party’s own employees, agents or advisors and then only to those who need to know the same) without the other party’s prior written consent provided that this Clause shall not extend to (i) information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to this Contract, (ii) which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Clause) or (iii) which is required to be disclosed by any governmental or regulatory body or by law.
  - 10.2 The obligations as to confidentiality shall remain in full force and effect notwithstanding the termination of this contract.
  - 10.3 The Supplier shall not use MetaspHERE’s name for advertisements or publicity.
  11. **Intellectual Property Rights**
  - 11.1 The Supplier shall indemnify MetaspHERE in full against any claim for infringement (or alleged infringement) of any Intellectual Property rights brought by a third party as a result of the use of any Goods, the results of any Services or any materials supplied by the Supplier.
  - 11.2 Subject to any prior rights and to the rights of third parties, all Intellectual Property rights and copyright in all reports, documents and things produced under the Contract shall be vested in MetaspHERE. The Supplier hereby assigns (by way of present and future assignment and with the full title guarantee) all such Intellectual Property rights. All moral rights relating to the work under the Contract are hereby waived by the Supplier.
  - 11.3 Any right of use in or over property which is acquired by the Supplier or by its staff pursuant to, or for the purposes of the Contract, shall be acquired by the Supplier upon terms which shall enable such rights of use to vest in MetaspHERE to the full extent enjoyed by the Supplier without need for any further authorisation, consent or payment.
  12. **Force Majeure**
  - 12.1 Any delay or failure of the Supplier to perform its obligations hereunder shall be excused if due to a Force Majeure Event, provided that written notice of such delay is given to MetaspHERE.
  - 12.2 During such period (a) MetaspHERE, at its option, may purchase Goods and/or Services from other sources and/or reduce or cancel any unfulfilled orders, without liability to the Supplier and (b) the Supplier shall do all such things as may be reasonable to mitigate the effects of the Force Majeure Event.
  - 12.3 If the delay lasts more than 30 days MetaspHERE may immediately terminate this Contract without liability.
  13. **Insurance**
  - 13.1 The Supplier shall procure and maintain insurance(s) in amounts and with coverages acceptable to MetaspHERE and in line with good industry practice, with reputable insurance companies. At MetaspHERE’s request, the Supplier shall furnish to MetaspHERE certificates and other satisfactory evidence of such insurances. The Supplier’s purchase and maintenance of such appropriate insurance however, shall not modify or relieve the Supplier of its obligations and liabilities under this Contract.
  14. **General**
  - 14.1 All Services supplied shall be performed by appropriately qualified and trained personnel with due care and diligence.
  - 14.2 None of the work covered by the Contract shall be assigned or sub-contracted by the Supplier.
  - 14.3 The provisions of the Contract (Rights of Third Parties) Act 1999 shall not apply to the Contract and are hereby expressly excluded.
  - 14.4 Except as otherwise provided herein, the rights of either party under the Contract shall not be prejudiced or restricted by any indulgence or forbearance extended by one party to the other and no waiver by one party of its rights in relation to any breach of the Contract shall affect its rights in respect of any subsequent breach.
  - 14.5 Any demand, notice or other communication given or made under or in connection with this Contract shall be in writing.
  - 14.6 All notices shall be deemed properly served if delivered in person or if sent by fax or first class post to its registered office or principal place of business. A notice sent by fax will be deemed to have been served at the time of successful transmission, provided a confirmatory copy is also sent by first class post. A notice sent by first class post shall be deemed served two working days after posting.
  - 14.7 The Supplier and MetaspHERE are independent contracting parties and noting in this Contract shall make either party the agent or legal representative of the other.
  - 14.8 If any provision herein is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions and the remainder of the provisions in question shall not be affected thereby.
  - 14.9 This Contract constitutes the entire agreement between the Supplier and MetaspHERE with respect to the matters contained herein and supersedes all prior oral or written representations and agreements.
  - 14.10 The formation, existence, construction, performance, validity and all aspects of the contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
- Additional Standard Terms and Conditions for the supply of Goods only**
15. **Delivery of Goods**
  - 15.1 At time of delivery, the Supplier shall provide an advice note detailing the MetaspHERE purchase order number, description code number (if any) and quantity of the Goods consigned.
  - 15.2 All Goods must be adequately packaged and protected against damage and deterioration in transit.
  - 15.3 Returnable packaging and other containers shall be supplied by the Supplier free of charge.
  16. **Statutory Obligations – Imported Goods**
  - 16.1 The Supplier shall furnish the necessary information for MetaspHERE to comply with the EC Intrastate regime.
  17. **Property and Risk**
  - 17.1 Title to the Goods shall not pass to MetaspHERE until the price for those Goods has been paid, but in any event MetaspHERE shall be entitled to resell or use the Goods in the ordinary course of business.
  - 17.2 The risk in the Goods shall pass upon delivery of the Goods provided that a duly authorised representative of MetaspHERE signs for receipt of the Goods.
  - 17.3 Where advance or progress payments are made, title but no risk shall pass to MetaspHERE as soon as items are allocated to the Contract. All items so allocated shall be adequately marked and recorded as being the property of MetaspHERE.
  18. **Rejection of Goods**
  - 18.1 MetaspHERE may reject any Goods which on inspection are found not to conform with the requirements of the Contract and the Supplier shall, at its own expense, remove the rejected Goods and shall do so within 7 working days from receipt of notification of rejection.
  - 18.2 If the Supplier fails to remove the Goods in accordance with Clause 18.1, MetaspHERE may return the rejected Goods to the Supplier at the Supplier’s risk, the cost of carriage being recoverable from the Supplier
  - 18.3 When MetaspHERE rejects any Goods after delivery, MetaspHERE at its sole discretion shall either (i) obtain a full refund for the goods or (ii) require that the Supplier (at its own expense) delivers Goods which conform with the requirements of the Contract as soon as reasonably practicable.
  19. **Quality and Description**
  - 19.1 Unless otherwise agreed in writing by MetaspHERE, all Goods supplied shall:
    - a) conform as to quality and description stated in the purchase order and correspond to any sample, pattern or specification specified in the Contract;
    - b) comply with any applicable British or European equivalent standard specification;
    - c) be of sound materials and workmanship;
    - d) be fit for the purpose for which they are supplied and any purpose that the Supplier is aware of; and
    - e) be new or be provided using new materials.
  20. **Warranty**
  - 20.1 Without prejudice to any other rights or remedies, the Supplier shall expeditiously repair or replace all Goods which are or become defective during the period of twelve months (or during any extended agreed period) from using the Goods, where such defects occur under proper usage and are due to fault design, materials or workmanship, or erroneous or inadequate instructions as to use, or any other breach of the Supplier’s obligations, whether express or implied.
  - 20.2 Repairs and replacements shall themselves be subject to the foregoing obligations for a period of twelve months (or any extended period) from the date of reinstallation or supply.
  21. **Hazardous Goods**
  - 21.1 Prior to delivery, the Supplier shall give MetaspHERE written notice of any Goods and/or other items accompanying the Goods or associated with their delivery, as having toxic or other hazards to the safety or health of persons or property. The Supplier shall identify those hazards and give clear and full details of all precautions which the Supplier and MetaspHERE should take.