

# AIR PEACE LIMITED GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. Definitions and Interpretation

### 1.1. Definitions

In this Agreement:

Acceptance Requirements has the meaning given to that term in clause 6(a)

Agreement means these purchase order terms:

APL means Air Peace Limited.

“Buyer” means APL, as detailed in the Purchase Order. APL is a company registered in Nigeria, Head Office address: 25 Sobo Arobiodu Street Ikeja G.R.A., Lagos state, Sobo Arobiodu Street.

APL data means any data relating to APL business, including its operations, facilities, customers, employers, assets, sales and transactions, in whatever form the data exists, and includes any:

- a) Database in which data or information is contained
- b) Documentation or records related to data or information;
- c) Products resulting from the use or manipulation of data or information; and
- d) Copies of any of the above

APL Material means all material owned by APL or licensed to APL by a third party, provided by or on behalf of APL to the Supplier (including to its Personnel) for the purposes of this Agreement.

APL system means any computer or other system owned or operated by APL

Claim means, in relation to a party, a demand, claim, suit, action or proceeding made or brought against that party, however arising and whether present, unascertained, future, or contingent.

Confidential Information means:

- a) The terms of this Agreement; and

- b) all information, material or data (regardless of the form of disclosure or the medium used to store or represent it, and whether or not any document has been marked as confidential, proprietary or), in any form, whether tangible or not, otherwise disclosed or communicated or made available, whether directly or indirectly, by the Disclosing Party to the Recipient Party, or learned or accessed by the Recipient Party, or to which the Recipient Party is exposed as a result of entering into this Agreement or otherwise through engagement with the Disclosing Party,

but does not include any information which:

- c) is or becomes generally known to the public other than through a breach of this Agreement or any other confidentiality obligation relating to that information;
- d) the Recipient Party can prove was already known to the Recipient Party at the time of disclosure, unless such knowledge arose from the disclosure of information in breach of any confidentiality obligation relating to that information;
- e) the Recipient Party develops independently of any disclosure in connection with this Agreement; or
- f) the Recipient Party obtains from a source other than the Disclosing Party, where such source is entitled to disclose it without breaching any confidentiality obligation.

To avoid doubt, information developed by the Supplier specifically for APL under or in connection with this Agreement is Confidential Information of APL and not of the Supplier.

Defect means:

- a) any fault, failure, degradation, deficiency, or error in, or partial supply

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or non-supply of, a Product or Supplier Material; or

- b) any functionality or performance of a Product or Supplier Material not in accordance with the specification for that Product or Supplier Material.

Delay Notice has the meaning given to that term in clause 8(b).

Disclosing Party has the meaning given to that term in clause 14.1(a).

Fees means the fees for the Products, as more particularly described in the Purchase Order.

Force Majeure means, in relation to a party, an event (war, emergency, accident, fire, earthquake, flood, storm, industrial strike) outside the reasonable control of that party which prevents the performance of any obligation and which event:

- a) was not caused or contributed to by that party or any of its Associated Bodies Corporate (in each case including their respective Personnel);
- b) could not have been prevented by reasonable precautions or remedied by reasonable expenditure by that party; and
- c) could not reasonably be circumvented through alternate sources, including through business continuity planning,

but does not include:

- a) any accident, breakdown of plant or machine owned or operated by that party or any of its Associated Bodies Corporate (or their respective Personnel); or
- b) non-performance by suppliers or subcontractors or the failure of hardware or software (if applicable) used in the provision of the Products.

Indirect Taxes mean any value-added tax, goods and services tax, sales and use tax, duties, levies or other similar taxes, imposed by any governmental authorities under the laws of an applicable jurisdiction.

Infringement Claim means any Claim:

- a) affecting the Supplier's ownership of the Intellectual Property Rights in the Products, or any inputs into the Products; or
- b) that the supply or other use of the Products or Supplier Materials infringes or may infringe the Intellectual Property Rights of a third party.

Insolvency Event means the happening of any one or more of the following events:

- a) the Supplier suspends, or threatens to suspend, payment of its debts or is unable, or admits inability, to pay its debts as they fall due;
- b) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
- c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier;
- d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Supplier;
- e) the holder of a charge or security over the assets of the Supplier has become entitled to appoint or has appointed an administrative receiver or person of similar capacity;
- f) a receiver is appointed, or a person becomes entitled to appoint a receiver, over all or any of the assets of the Supplier;
- g) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration, or other such process is levied or enforced on or sued against,

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the whole or any part of the Supplier's assets; and

- h) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in paragraphs (a) to (g) above

Intellectual Property Rights means all industrial and / or intellectual property rights, and includes any patents, registered designs, copyright (including future copyright), trade or service marks (whether registered or unregistered), trade secrets, moral rights, know-how, rights in relation to circuit layouts, or other proprietary right, and applications for, and rights to apply for, registration of any of these things.

Liability means all liability, loss, damage, cost, expense, charge, outgoing or payment, including reasonable legal fees and disbursements, for which a party is liable, whether or not yet paid or met by that party.

Material means all property, information, documentation, and other materials, including reports, specifications, user manuals, operations manuals, training manuals and instructions, and the subject matter of any Intellectual Property Rights.

Payee has the meaning set out in clause 10.3(c).

Personnel, in relation to a party, means that party's officers, employees, contractors or agents, including employees or independent contractors of such contractors or agents.

Personal Data means any information relating to an identified or identifiable natural person, being a person who can be identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic,

cultural, or social identity of that natural person.

Pre-existing Intellectual Property Right means a party's Intellectual Property Rights existing prior to the commencement of this Agreement or subsequently brought into existence other than in the course of supply Products under this Agreement.

Privacy Laws means the privacy laws of the place of APL's incorporation, the privacy policy issued by APL from time to time (available on request), and any other applicable legislation, principles, industry codes and policies relating to the handling of personal information.

Product means a product or deliverable supplied by the Supplier to APL under this Agreement, as more particularly described in the Purchase Order.

Purchase Order means the purchase order raised by APL on its AD Software system or such other APL System

Recipient Party has the meaning given to that term in clause 14.1(a).

Regulatory Authority means any public body having regulatory or supervisory authority over any part of the business of affairs of the APL.

Representative, in relation to a party, means any person acting for or on behalf of the party and includes any Personnel, professional adviser or broker (including insurer or insurance broker, if applicable) of the party.

Required Date has the meaning set out in clause 8(a).

Supplier means the supplier entity set out in the Purchase Order.

Supplier Material means any Material owned by the Supplier or licensed to the Supplier by a third party before the Commencement Date or developed by the Supplier or licensed to the Supplier outside the scope of this Agreement, and provided to APL in connection with the Products, excluding APL Material.

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Taxes means taxes, levies, imposts, duties, excise and charges, deductions, or withholdings, however described, imposed by law or government authority or agency, including any related interest, penalties, fines, or other charges or other expenses, but excluding Indirect Taxes.

Warranty Period means, in relation to a Product, the period specified in warranty terms of the Product or as separately agreed between APL and the Supplier.

## 1.2 Interpretation

In this Agreement, headings are only for convenience and do not affect interpretation and, unless the context requires otherwise

- a) words in the singular include the plural and the plural include the singular;
- b) words of one gender include any gender;
- c) words following the terms including, include or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase, or term preceding those terms;
- d) an expression indicating a person includes an individual, a company, partnership, joint venture, association, corporation, or other body corporate;
- e) a reference to a party to this Agreement includes that party's successors and permitted assigns;
- f) a reference to a clause or a party, is a reference to a clause of, and a party to, this Agreement;
- g) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- h) no rule of construction applies to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or any part of it; and

- i) any obligation on a party includes an obligation to procure compliance by that party's Personnel.

## 2. Agreement Structure

- a) The purpose of this Agreement is to set out the terms governing the supply of Products to APL by the Supplier.
- b) This Agreement will not apply to any Purchase Order if a separate written contract for the supply and purchase of the relevant Products has been duly executed, in which case the terms of that written contract will apply to such Purchase Order.
- c) The Supplier's appointment under this Agreement is non-exclusive and nothing
  - I. restricts APL from acquiring products from any third party which are the same as or similar to the Products; or
  - II. obliges APL to purchase any product, or any minimum volume or value of products, from the Supplier.

## 3. Obligations of the Supplier

### 3.1 Key Supply Obligations

The Supplier must at all times:

- a) comply with the terms and conditions of this Agreement;
- b) supply the Products with due care and skill, with appropriately skilled and qualified Personnel, in a timely and professional manner;
- c) comply with all applicable laws, APL Policies and all reasonable directions given by APL, and must not perform its obligations in a manner that causes

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APL to breach any applicable laws or APL Policies, or in a manner inconsistent with APL's reasonable directions

- d) ensure that the Products are not interfered with or delayed or hindered by any other work the Supplier may be doing under any contract or arrangement with any other person;
- e) provide all necessary facilities, tools, equipment, software, and other materials necessary for APL to take necessary of the Products under this Agreement;
- f) obtain, keep current and provide to APL, on request, evidence of any consents, licences, approvals, permits, registrations, authorisations, insurances, and exemptions required under this Agreement or at law to supply the Products;
- g) not be a party to any act or omission prejudicial to the goodwill, commercial reputation, or overall public image of APL; and
- h) control, co-ordinate, supervise, direct, and complete all activities necessary to supply the Products.

### 3.2 Access to premises and systems

- a) The Supplier may only access APL premises, facilities and / or APL Systems for the purposes, and on the conditions, as notified by APL to the Supplier from time to time, and APL may revoke, suspend or limit the access granted under this clause 3.2 at any time without notice.
- b) The Supplier indemnifies APL against any Liability incurred by APL or its Personnel to the extent caused or contributed by the Supplier or its Personnel while accessing any APL premises, facility, or APL System.
- c) The Supplier must ensure that those of its Personnel that have access to any APL premises, facility or APL System

comply with the requirements, policies, standards and directions of APL, including as to conduct, behaviour, health, safety, environment and security.

### 3.3 Supplier must work with third parties

The Supplier must work with, and provide all reasonable information and assistance to, any third party engaged by APL in connection with activities relating to or associated with the supply of the Products.

### 3.4 Supplier obligation to notify APL

The Supplier must immediately notify APL, and provide all relevant details of, any:

- a) actual or suspected unauthorised access to the Supplier's sites or systems from which it produces or supplies the Products;
- b) proposed or actual Insolvency Event;
- c) activity or obtaining any interest which will or is likely to compromise or restrict the Supplier from performing its obligations under this Agreement fairly and independently; or
- d) complaint or Claim relating to the breach of any applicable laws, to the extent applicable to the supply of Products.

## 4. Subcontracting

The Supplier must not subcontract any of its obligations under this Agreement without APL's prior written consent. The Supplier remains liable for the acts and omissions of its subcontractors in connection with this Agreement as if they were the acts and omissions of the Supplier

## 5. Personnel

- 1. The Supplier must ensure its Personnel;
  - 1.1. are of good character, suitably skilled, experienced, and qualified; and



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- 1.2. hold all necessary authorisations, visas, licences, approvals and permits, to perform the responsibilities assigned to them.
2. The Supplier remains liable for the acts and omissions of its Personnel in connection with this Agreement as if they were the acts and omissions of the Supplier.

## 6. Acceptance of Products

- a) If a Product fails to meet any acceptance requirements as notified by APL from time to time (Acceptance Requirements), APL may:
  - a. require the Supplier to rectify any Defect or replace the Product (at its own cost);
  - b. provide an acceptance certificate subject to the Supplier rectifying any Defect or replacing the Product (at its own cost) within a period specified by APL; and / or
  - c. provide an acceptance certificate in relation to the Product, subject to a reduction in Fees.
- b) APL may cancel any Purchase Order (in part or in whole) for cause by written notice to the Supplier if, in APL's reasonable opinion, the Supplier fails to meet the Acceptance Requirements after multiple attempts or on a systemic basis.

## 7. Warranty Period

- a) The Supplier must rectify any Defect in a Product that becomes apparent during the Warranty Period as soon as reasonably possible, at no further cost to APL.
- b) If the Supplier fails to rectify a Defect in accordance with clause 8(a), the Supplier must refund to APL the full Fees paid by APL for that Product.

## 8. Delays

- a) The Supplier must meet each delivery date, milestone and / or due date for the Products as notified by APL from time to time (Required Date).
- b) If the Supplier becomes aware of any delay (or likely delay) which will (or is likely to) impact the Supplier's ability to meet a Required Date, the Supplier must notify APL in writing as soon as practicable (Delay Notice). The Delay Notice must contain:
  - I. The reason for the delay;
  - II. its best estimate of the date it will supply the Products;
  - III. the steps that have been, and are being, or will be taken to manage the delay and its causes; and
  - IV. any anticipated impact on any APL or other dependencies.
- c) APL may, at its discretion, consider any Delay Notice which complies with clause 8(b) in good faith and, at its discretion, may extend any Required Date (and all dependent Required Dates) by the amount of time APL considers to be justified having regard to the extent:
  - I. the delay was caused by a person other than the Supplier;
  - II.
  - III. the Supplier has taken all steps to minimise the delay
- d) If the Supplier fails to meet a Required Date, the Supplier must (at no additional cost to APL) take all steps reasonably necessary to remedy the failure as soon as possible, minimise the effect of the delay and accelerate work to ensure that future Required Dates are not missed

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## 9. Fees and Invoices

### 9.1 Invoices

- a) The Supplier must ensure that all invoices:
  - i) specify a payment amount that is correctly calculated and due for payment;
  - ii) are set out in a manner that enables APL to ascertain the particular Products to which the invoice relates and the amount payable in respect of each Product; and
  - iii) are accompanied (where necessary or where reasonably requested by APL) by substantiating documentation.
- b) The Supplier may only submit an invoice in respect of Products:
  - i) after the Products have been supplied to APL; and
  - ii) after APL has issued an acceptance certificate for that Product (if applicable).
- c) Unless otherwise agreed with APL in writing, the Fees will be fully inclusive of (and APL will not be required to pay) any travel, accommodation and other incidental costs and expenses incurred by the Supplier in performing its obligations under this Agreement

### 9.2 Payment of Fees

- a) In consideration of the Supplier supplying the Products under this Agreement, APL will pay the Supplier the invoiced Fees
- b) APL will pay correctly invoiced Fees within an agreed Net payment term, after receipt of the invoice by APL.
- c) APL may dispute an invoice if APL believes that:
  - i) the invoice is not properly or correctly rendered;
  - ii) the Products to which the invoice relates have not been properly provided or are otherwise the subject of a dispute; or

- iii) the Supplier has not complied with the terms of this Agreement in supplying the Products to which the invoice relates.
- d) If APL disputes an invoice:
  - i) that has not yet been paid, APL may withhold payment of all or part of that invoice until the dispute is resolved; and
  - ii) that has been paid, APL may set off the disputed amount in accordance with clause 9.2(e) or require the Supplier to refund the disputed amount.
- e) APL may set off against the Fees payable to the Supplier, any amount payable by the Supplier to APL, under this Agreement

### 9.3 Effect of Payment

The Supplier acknowledges that any payment made to it by APL does not imply or constitute an admission on the part of APL that any Products have been accepted by APL or a waiver of APL's rights or release of the Supplier's obligations under this Agreement.

## 10. Taxes

### 10.1. Responsibility of Taxes

- a) The Supplier is responsible for any and all Taxes which may arise as a result of or in connection with this Agreement.
- b) The Supplier agrees to indemnify APL in relation to any Claims or Liabilities (including penalties and interest) arising as a result of any Taxes for which the Supplier is responsible pursuant to clause 10.1(a).

### 10.2. Withholding Tax

- a) To the extent that an amount payable to the Supplier under this Agreement is subject to a withholding tax, levy or similar obligation under the laws of an applicable jurisdiction, APL may withhold the portion of that amount equal to that tax, levy or obligation,

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and remit it to the applicable revenue or taxation authority.

- b) APL shall provide to the Supplier the appropriate certificate or evidence of payment from that authority confirming due payment of that tax, levy, or obligation
- a) .

## 11. Intellectual Property Rights (IPR)

### 11.1. Pre-existing IPR

No Pre-existing Intellectual Property Rights of either party are assigned or transferred under this Agreement.

### 11.2. Supplier Material

- a) Supplier Material remains the property of the Supplier (or the Supplier's licensors, if applicable).
- b) The Supplier hereby grants to APL a royalty free, perpetual, irrevocable, worldwide, non-exclusive licence (including the right to sub-licence) to use, reproduce, modify, adapt, develop, and otherwise exploit (either directly or through its Personnel) the Supplier Material for the purposes of acquiring, using, and getting the full benefit of the Products.

### 11.3. APL Material

APL Material remains the property of APL (or APL's licensors, if applicable).

### 11.4. IPR Warranty

The Supplier warrants to APL that:

- a) in relation to the products it has not received notice of, and is not otherwise aware of, any Infringement Claim anywhere in the world;
- b) the Products and their supply or use do not infringe the Intellectual Property Rights of any person; and
- c) the Supplier's Materials and / or Products do not infringe, and APL's or the Supplier's use of any of such

materials as contemplated under this Agreement do not infringe, the Intellectual Property Rights of any person.

### 11.5. Intellectual Property indemnity

The Supplier indemnifies APL and its Personnel against any Liability directly or indirectly arising out of, or in connection with, any breach of clause 11.4 or Infringement Claim.

### 11.6. Use of infringing material by APL

- a) The Supplier must immediately notify APL if the Supplier becomes aware of any potential Infringement Claim made or likely to be made against the Supplier, including any details of the alleged infringement.
- b) If any of the Supplier Materials or Products supplied or provided under this Agreement infringes the Intellectual Property Rights of a third party, or APL is prevented from using the Supplier Material or Products (as applicable) or exercising any of its other rights under this Agreement, the Supplier must at its own cost and expense:
  - i) secure the rights to allow APL to continue using the Supplier Material or Products (as applicable) or exercising any of its other rights under this Agreement;
  - ii) subject to APL's consent, replace or modify the Supplier Material or Products (as applicable) to make it non infringing but without adversely affecting performance or functionality; orif the Supplier is unable to promptly accomplish either of clauses 11.6(b)(i) or 11.6(b)(ii), at the request of APL, accept return of the Supplier Material and Products (as applicable) and



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provide to APL a full refund of any Fees paid by APL

### 12. APL Data

- a) The APL Data remains the property of APL
- b) If the Supplier deals with any APL Data as a result of performance of its obligations under this Agreement, then the Supplier must:
  - i) only use the APL Data strictly as is necessary for the performance of its obligations under this Agreement;
  - ii) comply with APL's directions with respect to the safeguarding and security of the APL Data and all applicable APL Policies; and
  - iii) not make any APL Data available to a third party other than a subcontractor approved in accordance with clause 4 of this Agreement, and then only as is necessary, for that subcontractor to supply the Products.

### 13. Records and Audit

#### 13.1. Audit

- a) In order to enable APL to monitor the supply of Products, and compliance with this Agreement, APL (or its nominated Personnel) may, upon giving reasonable notice to the Supplier, conduct an audit or inspection under this clause 13.
- b) As part of the audit or inspection, the Supplier must give APL (or its nominated Personnel) access to its (and its Personnel) sites, facilities, records, materials and resources relevant to this Agreement:
  - i) to verify the accuracy of any invoices issued under this Agreement
  - ii) to examine the supply of Products; or

iii) to verify certification and regulatory compliance applicable to the performance of this Agreement.

- c) The Supplier must provide all reasonable assistance required by APL and its nominated Personnel in conducting audits and inspections under clause 13.1(a), including by making appropriate Personnel available to answer questions and provide information.
- d) If an audit or inspection reveals that the Supplier is not complying with this Agreement, the Supplier must, ensure that any relevant Personnel:
  - i) take such actions as are necessary to promptly remedy the non-compliance; and
  - ii) comply with any reasonable directions or instructions from APL as to the manner (including timing) in which such non-compliance must be remedied.
- e) Each party will bear its own costs associated with audits or inspections conducted under clause 13.1(a), unless such audit or inspection reveals that the Supplier has breached this Agreement, in which case the Supplier must indemnify APL for the costs incurred in undertaking the audit or inspection

#### 13.2. Document maintenance and retention

- a) The Supplier must keep and retain full and proper records required to demonstrate the Supplier's compliance with this Agreement.
- b) For the purposes of clause 13.1(a), records must include those required to demonstrate that the Fees have been properly calculated.

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- c) The Supplier must retain records for at least 7 years after the cancellation or expiry of this Agreement.

### 13.3. Regulatory Authority audit or inspection

Despite the provisions set out in this clause 13, in order to enable APL to comply with its obligations at law or any request or requirement by any Regulatory Authority:

- a) APL may conduct an audit or inspection at any time; and
- b) the Supplier must give APL (or its nominated Personnel) access to audit and inspect its (and its Personnel) sites, facilities, records, materials, and resources relevant to this Agreement.

## 14. Confidentiality and Privacy

### 14.1. Confidentiality

- a) The parties acknowledge and agree that, in the course of, or in connection with, this Agreement, a party (Disclosing Party) may provide Confidential Information to the other party (Recipient Party).
- b) The Recipient Party must:
  - i) not disclose the Disclosing Party's Confidential Information to any person except as permitted under clause 14.1(c);
  - ii) use, copy or reproduce the Disclosing Party's Confidential Information only for the purposes of this Agreement;
  - iii) not use the Disclosing Party's Confidential Information in any way which would be harmful to the Disclosing Party; and
  - iv) take all steps reasonably necessary to secure the Disclosing Party's Confidential Information against loss or unauthorised disclosure.

- c) The Recipient Party must not disclose the Disclosing Party's Confidential Information to any person except:

- i) to its employees, lawyers, accountants, and Personnel on a 'need to know' basis provided those persons first agree to observe the confidentiality of the information to be provided;
- ii) with the Disclosing Party's prior written the consent;
- iii) if required by law, any Regulatory Authority or
- iv) if it is in the public domain, other than by a breach of this clause 14.

### 14.2. Privacy

The Supplier must:

- a) comply with all Privacy Laws in relation to Personal Data;
- b) only use or disclose the Personal Data for the sole purpose of performing its obligations under this Agreement;
- c) only collect, access, use, store, disclose or otherwise deal with Personal Data as directed by APL, except to the extent that compliance with the direction would cause the Supplier to breach a Privacy Law;
- d) provide all reasonable assistance as required by APL to assist APL in complying with its obligations under any Privacy Law; and
- e) immediately notify APL if it has reasonable grounds to believe that there has been a breach of this clause 14.2.

## 15. Warranties

### 15.1. Mutual Warranties

Each party represents and warrants to the other party that:

- a) it has full corporate power and authority to enter into, and perform

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and observe its obligations under, this Agreement, which has been duly and validly authorised by all necessary corporate action; and

- b) its obligations under this Agreement are valid, binding, and enforceable.

### 15.2. Supplier warranties to APL

In addition to the representations and warranties set out in clause 15.1, the Supplier represents and warrants to APL that:

- a) it has the right and power to grant to APL the licences and assignments granted under this Agreement;
- b) Products comprising software will be free of software viruses, trojan horses, worms, or other harmful code;
- c) it, and each of its Personnel, has the level of skill, knowledge, experience, and ability which may be expected of a professional organisation or individual, as applicable, experienced in supplying products of the type and complexity of the Products; and
- d) all Products supplied by the Supplier to APL will be:
  - i) free from Defects in design, material, and workmanship;
  - ii) in conformity with any specifications or requirements of APL referred to in this Agreement;
  - iii) fit for the purpose communicated by APL; and
  - iv) fit for any purpose for which they are commonly acquired.

## 16. Indemnities and Liability

- a) The Supplier indemnifies APL and its Personnel against any Liability incurred or suffered by any of them arising out of:
  - i) any wilful, unlawful, or wrongful act or omission of the Supplier or its Personnel;

- ii) any breach of the confidentiality and privacy obligations under clause 14;

- iii) any injury to, or death of a natural person and any loss of, or damage to, APL's or a third party's tangible property, real or personal, to the extent caused or contributed by the Supplier or its Personnel; and

- iv) any Claim by a third party against APL or its Personnel to the extent caused by a breach of this Agreement, or any wilful, unlawful, or wrongful act or omission of the Supplier or its Personnel.

- b) It is not necessary for APL to incur any expense or make any payment before enforcing the indemnity conferred by this clause 16(a).

## 17. Insurance

- a) The Supplier must, at its cost, take out and maintain sufficient insurance coverage required by law and in respect of Liability that may be incurred or suffered arising out of or in connection with this Agreement. All such insurance policies shall be taken out with reputable insurers with a financial strength rating of at least "A-" by Standard & Poor's and/or "A" by A.M. Best (or equivalent).
- b) The Supplier must, on request by APL, promptly provide the current certificate of insurance and/or other evidence reasonably satisfactory to APL that the insurance requirements set out in this clause 17 are being complied with

## 18. Cancellation by APL

### 18.1. Cancellation by APL

APL may, without prejudice to any other rights and remedies it may have under this Agreement or at law, immediately cancel any

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Purchase Order (in whole or in part) by notice in writing to the Supplier, if:

- a) the Supplier is in material breach of the Agreement, or commits multiple or recurring breaches, whether or not remedied;
- b) an Insolvency Event occurs in respect of the Supplier;
- c) if the Supplier fails to meet the Acceptance Requirements;
- d) if APL forms the reasonable opinion that, as a result of a breach of a warranty in clause 15, its association with the Supplier under this Agreement would have an adverse effect on APL's reputation or business; or
- e) if an event of Force Majeure continues for more than 10 days.

### 18.2. Consequences of cancellation by APL

- a) If APL cancels a Purchase Order under clause 18.1, then APL:
  - i) will not be required to make any payment in respect of Products not yet supplied on the effective date of such cancellation;
  - ii) may recover from the Supplier all money paid for any Product, or part of a Product, not yet supplied under this Agreement; and
  - iii) may apply any amount due from APL to the Supplier under this Agreement towards satisfaction of:
    - a. any damages, costs and expenses recoverable by APL from the Supplier in consequence of the Supplier's breach of this Agreement; and
    - b. any amounts payable by the Supplier to APL under this Agreement

and the Supplier authorises APL to do anything (including to execute documents) that is required for that purpose

- b) After exercising its rights under this clause 18.2, APL will pay the net amount outstanding to the Supplier.

### 18.3. Preservation of rights

Cancellation or expiry of a Purchase Order does not affect any rights of either party which arose prior to such cancellation or expiry, or which otherwise relate to or which may arise at any future time for any breach or non-observance of obligations occurring prior to the cancellation or expiry.

### 18.4. Survival

Cancellation or expiry of a Purchase Order does not affect those provisions and those obligations of a party which by their nature survive cancellation or expiry, including clauses 1, 11, 12, 14, 15, 16, 17, 18.2 and this clause 18.4.

## 19. Publicity and use of APL branding

- a) The Supplier must not:
  - i) make any press release, announcement, or other public notification in relation to this Agreement; or
  - ii) use or reproduce any APL trade mark or branding, without obtaining the prior written consent of APL, which consent may be withheld or provided in APL's discretion.
- b) To the extent that APL provides consent under clause 18(a), the Supplier must comply with APL's brand guidelines, as they may apply from time to time.

# AIR PEACE LIMITED GENERAL TERMS AND CONDITIONS OF PURCHASE

## 20. Force Majeure

### 20.1. No Liability

If a party is prevented from performing an obligation under this Agreement by reason of Force Majeure, subject to the remainder of this clause 20, that party will not be liable to the other for such failure to the extent that performance is delayed or prevented by the Force Majeure.

### 20.2. No Relief

Force Majeure does not relieve a party from performing its obligations if the delay or failure in performance can be prevented by taking reasonable precautions or can be circumvented by implementing reasonable work-arounds

### 20.3. Responsibilities of the affected party

A party affected by an event of Force Majeure must:

- a) promptly notify the other party and describe in reasonable detail the event of Force Majeure and its likely effect on the ability of the affected party to perform its obligations and the recovery plan, alternative arrangements and mitigation measures it will implement;
- b) resume performance and meet its obligations as soon as possible and, in any event, on, and from the time the event of Force Majeure no longer prevents that party performing its obligations;
- c) take all reasonable steps to mitigate the effect of the event of Force Majeure and any Liability caused to the other party and itself; and
- d) keep the other party informed as to the nature and extent of the event of Force Majeure and its impact on performance under this Agreement.

### 20.4. Cancellation

APL may cancel any Purchase Order immediately by written notice if the Supplier is prevented from performing any of its obligations by Force Majeure for more than 14 days

## 21. Miscellaneous

### 21.1. Severability

- a) If a provision of this Agreement is void, unenforceable or illegal in a jurisdiction, it is severed from this Agreement for the purposes of enforcement in that jurisdiction.
- b) The remainder of this Agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

### 21.2. Amendment

This Agreement may only be varied by written agreement between the parties

### 21.3. Waiver Conditions

- a) Except as provided at law, or in equity, or elsewhere in this Agreement, none of the provisions of this Agreement may be waived, discharged, or released, unless it is in writing and signed by the party granting the waiver, discharge, or release
- b) A failure by a party to insist upon a strict performance of any of the terms and conditions of this Agreement is not deemed a waiver of any subsequent breach or default of the terms and conditions of this Agreement.

### 21.4. Rights, Powers and Remedies

The rights, powers, and remedies of APL provided in this Agreement are cumulative with, and not exclusive of, any right, power, or remedy provided by law



## AIR PEACE LIMITED GENERAL TERMS AND CONDITIONS OF PURCHASE

### 21.5. Exercise of Rights

- a) Except as expressly provided to the contrary in this Agreement, a party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy.
- b) A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or of any other right, power or remedy.
- c) Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.
- d) No specified right or remedy available to APL under this Agreement or at law, limits or negates any other right or remedy for APL under this Agreement or at law.

### 21.6. Entire Agreement

This Agreement and the Purchase Order supersedes all previous agreements, letters, offers, quotations, and negotiations sent or received on the subject matter of this Agreement and contains the entire agreement between the parties.

### 21.7. Third Party Rights

Unless expressly stated otherwise, this Agreement does not give rise to any rights to a third party to enforce any term of the Agreement. The rights of the parties to rescind or vary this Agreement are not subject to the consent of any third party.

### 21.8. Governing law and submission to jurisdiction

. This GTCP and the Contracts based on them shall be governed by the applicable laws of the Federal Republic of Nigeria

Any dispute arising out of or relating to or in connection with this GTCP and the contracts based on them including any question regarding its validity or termination shall be FINALLY settled by Arbitration PROVIDED

ALWAYS that prior to any Arbitral process, the Parties shall

(a) Not more than 5 clear days from when a written complaint is received by the other party in relation to any dispute that has arisen, amicably settle the dispute in good faith, through their appointed representatives. Parties shall settle the dispute by negotiation and compromise

(b) Where (a) above fails, the Parties shall not more than 5 clear days of such failure agree and nominate a conciliator who shall assist the Parties to reach a compromise decision by suggesting a solution to them. The Conciliation process shall be concluded, and a resolution made within 5 clear days of the conciliator's nomination. The cost of conciliation shall be borne equally by the Parties.

(c) Where Conciliation as provided in (b) above fails, the Parties shall within 5 clear days of such failure submit the dispute in writing to a single Arbitrator. The following provisions shall then apply to the arbitral proceedings:

i. The seat of Arbitration shall be Lagos, Nigeria.

ii. A single Arbitrator shall be agreed and appointed by the parties. Where however, the Parties fail to agree on an Arbitrator or the appointed Arbitrator fails to act or subsequently becomes incapable of acting, any High Court Judge of the Lagos State Judiciary or the executive secretary of the Chartered Institute of Arbitrators Nigeria shall appoint the Arbitrator.

iii. The Language of Arbitration shall be English language.

iv. Subject to the express provisions under clause .... the procedure to be followed by the Arbitrator in conducting the arbitral proceedings shall be the procedure contained in the current Arbitration

## AIR PEACE LIMITED GENERAL TERMS AND CONDITIONS OF PURCHASE

and Conciliation Act of Nigeria Laws of the Federation of Nigeria.

v. The applicable substantive rules of the Arbitral proceedings shall be the extant national laws of Nigeria and principles of equity, in addition to accepted trade standards, and customs and usages of the Aviation industry where applicable.

vi. The Arbitrator shall hand down a final and binding award not more than 15 clear days of his appointment

vii. Each Party shall bear its own costs.

viii. Parties agree and undertake to keep confidential, all the above proceedings. A Party shall require the written consent of the other Party in order to disclose the contents of the Proceedings to any unauthorized person.

ix. Nothing under this ADR clause shall be construed as preventing any qualified person from being appointed as a conciliator and subsequently as an Arbitrator.

x. Where practicable online proceedings may with the Parties consent be utilized in place of physical proceedings.

xi. The Award shall be final and there shall be no appeal against it.

xii. The Parties shall equally bear the costs of appointing and paying the conciliator, and the arbitrator and other incidental costs of all the above ADR proceedings /processes

