



**Terms and Conditions of Supply**  
(for Goods, Services, and Digital Services)

**1. Introduction, definitions, and interpretation**

- 1.1. These Terms and Conditions of Supply (the “**ToS**”): (a) apply to and govern: (i) all sales of Goods; (ii) the supply of Digital Services; and (iii) the supply of Services; and (b) form part of the Contract between Terelion and the Purchaser.
- 1.2. The parties agree that: (a) in these ToS, words or phrases beginning with a capital letter shall have their respective meanings given under Clause 25 (*Definitions*); and (b) these ToS shall be construed and interpreted in accordance with Clause 3.5 (*The Contract*) and Clause 26 (*Interpretation*).

**2. Quotes, Orders, and Order Acceptance**

- 2.1. The Purchaser may submit an Order to Terelion (which Order may follow a Quote).
- 2.2. Subject to Clause 3 (*The Contract*), the Order constitutes an offer (by the Purchaser) to purchase (from Terelion) certain Goods, Services, or Digital Services subject to these ToS.

Terelion is not able to deliver the Goods to the Purchaser on the Delivery Date due

- 2.3. Terelion may, at its sole discretion, either: (a) accept the Order by way of an Order Acceptance (at which time the parties shall be immediately bound by the Contract); or (b) reject the Order.

**3. The Contract**

- 3.1. The parties agree that: (a) the provision or supply of all Goods, Services, and Digital Services under, or in connection with, an Order is subject to these ToS and the other provisions of the Contract; (b) the Contract contains the entire agreement between the parties with respect to its subject matter and supersedes all prior communications and agreements between the parties; (c) in entering into the Contract, the Purchaser has not, and does not, rely on any communication or representation (other than fraudulent misrepresentation) that has not been expressly set out in the Contract; (d) the Contract applies to the exclusion of any other terms or conditions including those: (i) issued, or referred to, by the Purchaser (including in an Order); or (ii) which may be implied by statute, trade, custom, practice, or course of dealing.
- 3.2. Terelion will not supply on, and expressly rejects: (a) the Purchaser's standard terms and conditions of purchase (or similar); and (b) to the fullest extent permissible under applicable Law, any terms and conditions other than those contained in the Contract.
- 3.3. The parties agree that the Contract is formed as described in Clause 2 (*Quotes, Orders, and Order Acceptance*).
- 3.4. The Purchaser agrees that, without limiting the Terelion Warranty, by: (a) accepting possession of the Goods; or (b) receiving the benefit of the Services or Digital Services, the Purchaser irrevocably acknowledges and agrees that the Goods, Services, or Digital Services (as the case may be) have been supplied in accordance with the Contract.
- 3.5. If, and to the extent, there is any conflict, inconsistency, or ambiguity between the constituent parts of the Contract then such conflict, inconsistency, or ambiguity shall be resolved in accordance with the following order of precedence (with the document earlier in the list prevailing over a document later in the list): (a) the Order Acceptance (if documented); (b) any other document attached or referred to in the Order Acceptance (if documented); (c) these ToS; (d) any other document attached or referred to in the ToS; (e) the Quote; (f) any other document attached or referred to in the Quote; and (g) subject to Clause 3.2, the Order.

**4. Facilities and Security Interests**

- 4.1. Subject to Clause 4.2, if Terelion has provided the Purchaser with a Facility then Terelion may withdraw the Facility either: (a) as agreed in writing with Terelion; or (b) otherwise, at any time and without prior notice to the Purchaser.
- 4.2. Terelion reserves the right to review, at any time, the Facility (including the extent, nature, and duration of the Facility).

to the Purchaser's inability, unavailability, or unwillingness to accept delivery, then

Terelion may (at its option): (a) dispatch the Goods; or (b) put the Goods into

storage at the expense and risk of the Purchaser (such expenses to be due and payable immediately on demand).

- 5.3. If the Purchaser fails to collect, or take delivery of, the Goods within three (3) months of the Delivery Date, Terelion shall be entitled, without prejudice to its other rights and remedies under the Contract, to: (a) terminate all or part of the Contract; and (b) dispose of the Goods and, unless otherwise stated in the Order Acceptance, to charge the Purchaser compensation of: (i) for standard Goods, 15% of the Amount Payable for the Goods in question; or (ii) for non-standard Goods, 30% of the Amount Payable for the Goods in question or the cost of materials and labour incurred until the cancellation date, whichever is higher, which shall be paid by the Purchaser within ten (10) days of Terelion issuing the corresponding invoice.
  - 4.3. The Purchaser agrees that: (a) Terelion may, from time to time, condition an Order Acceptance on Terelion's timely receipt of a Security Interest; and (b) where Terelion requires a Security Interest, Terelion shall not be obliged to deliver, supply, or otherwise make available the related Goods, Services, or Digital Services unless and until the Security Interest has been established to Terelion's satisfaction.
  - 4.4. Terelion shall be entitled to an equitable extension to any: (a) agreed Delivery Date; or (b) any other performance obligations, that may result from the Purchaser's failure to provide, or a delay in establishing, a Security Interest.
- 5. Goods - Delivery and Risk**
- 5.1. The parties agree that: (a) Terelion will deliver the Goods to the Terelion address set out in the Order Acceptance; (b) risk in the Goods shall pass to the Purchaser in accordance with the Incoterm determined in accordance with Clause 9.1; (c) delivery of the Goods may be made in one or more instalments and at different times or by separate shipments or deliveries; (d) adherence to the Delivery Date is determined by the date of the POD; and (e) the Purchaser's obligation to take delivery of the Goods is a material obligation under the Contract.
  - 5.2. The Purchaser agrees that, without prejudice to the Purchaser's obligations under the Contract or Terelion's other rights or remedies available under the Contract, if
  - 5.4. The parties agree that the compensation described in Clause 5.3 is a genuine pre- estimate of the costs and losses which Terelion would suffer from the Purchaser failing to take delivery of the Goods.
  - 5.5. Subject to Clause 6 (*Delay Payments*) and to the fullest extent permissible under applicable Law, the Purchaser agrees that: (a) the Delivery Date is estimated and not guaranteed; and (b) although Terelion shall use reasonable endeavours to meet an estimated Delivery Date, Terelion shall not be liable to the Purchaser for any loss or damage suffered or incurred by the Purchaser as a result of Terelion's failure to deliver the Goods before the expiry of the Delivery Date.
- 6. Goods – Delay Payments**
- 6.1. The parties agree that, subject to Clause 21 (*Force Majeure and Specified Risks*), if: (a) the Contract (in the Order Acceptance) expressly provides for a Delay Payment; and (b) the Goods are not delivered before the expiry of the Delivery Date, then the Purchaser may, subject to Clause 6.2, claim the Delay Payment which Terelion shall (at its option) either: (i) repay to the Purchaser; (ii) deduct from the purchase price for the Goods; or (iii) credit to the Purchaser.

- 6.2. The Purchaser's right to claim a Delay Payment is subject to the Purchaser giving Terelion written notice of the claim before the expiry of ninety (90) days from (and including) the original Delivery Date.
- 6.3. To the fullest extent permissible under applicable Laws, if the Purchaser exercises its right to receive a Delay Payment then: (a) provided that the Purchaser receives the Goods in question; and (b) without prejudice to the Purchaser's remedies under the Terelion Warranty, the Purchaser shall not be entitled to any additional remedy in respect of the late delivery of the Goods.
- 6.4. The parties agree that: (a) the Delay Payment represents a genuine pre-estimate of loss and a price adjustment by way of a refund of charges for the value of Goods not delivered on time; (b) the Delay Payment has been negotiated by parties of similar bargaining strength and who have had the benefit of legal advice; and (c) if a court having competent jurisdiction determines that the Delay Payment is unenforceable under applicable Law, then the Purchaser may instead seek general damages (provided that Terelion's liability for such general damages shall (subject to Clause 18.1 (*Liability*)) not exceed the Delay Payment that would have been payable had such Delay Payment been enforceable.

## 7. Goods - Cancellations

- 7.1. The Purchaser agrees that: (a) except as expressly specified otherwise in the Contract, it is not entitled to cancel, terminate, change, or postpone a Contract without the prior written authorisation and agreement of Terelion; and (b) it shall indemnify Terelion for any loss, cost, or damage which arises as a consequence of a breach of this Clause 7.1 (less of any cancellation fee agreed in the Quote).
- 7.2. The parties agree that: (a) the Purchaser must notify Terelion of any damage or shortage to the Goods in writing within: (i) two (2) Days of the date of the POD in the case of chemical resins and resin capsules; and (ii) in all other cases, seven (7) Days of the date of the POD; and (b) if the Purchaser does not notify Terelion within such time period, the Purchaser is deemed to have accepted the Goods unconditionally.
- 7.3. The parties agree that: (a) the Purchaser must notify Terelion of the incorrect supply of Goods in writing within twenty-one (21) days of the date of the POD; and (b) if the Purchaser does not notify Terelion within such time period, the Purchaser is deemed to have accepted the Goods unconditionally.
- 7.4. Terelion agrees that, subject to Clause 7.3: (a) the purchase price for all Goods incorrectly supplied to the Purchaser under a Contract will be refunded or credited in full; and (b) where Clause 7.4(a) applies, the freight costs to the receiving Terelion designated warehouse will be for Terelion's account.

## 8. Goods – Return of Goods not affected by defects

- 8.1. The Purchaser acknowledges and agrees that: (a) returns of Goods not affected by defects will only be accepted following Terelion's prior written agreement; (b) all Goods accepted as returns will be subject to a handling charge; and (c) Goods affected by defects shall be handled subject to Clause 11 (*Terelion Warranty*).
- 8.2. Subject to Clauses 8.1 (above) and 18 (*Liability*) and except as set out in Clauses 7.2 and 7.3, the following conditions apply to all Goods that the Purchaser seeks to return: (a) the Purchaser must notify Terelion of its intention to return the Goods before the expiry of seven (7) Days from (and including) the date of the POD (following which notice, Terelion shall generate a Return Note); (b) the Purchaser must ensure that the Goods are received by Terelion's designated warehouse before the expiry of fourteen (14) Days from (and including) the date of the Return Note; and (c) non-returnable items (regardless of other criteria) shall include: (i) gaskets; (ii) seals; (iii) belts; (iv) hoses; (v) opened kits; (vi) Goods made to order; (vii) non- Terelion Goods; and (viii) glass.
- 8.3. The Purchaser acknowledges and agrees that, to the fullest extent permissible under applicable Law, Terelion shall not: (a) be liable; or (b) accept any risk or responsibility, for returned Goods unless and until Terelion has accepted the return through generation and delivery of the Return Note and in accordance with Clause 8.4.
- 8.4. The Purchaser acknowledges and agrees that: (a) the Return Note shall constitute Terelion's preliminary approval for the return of the Goods; and (b) full and final acceptance of the return is at Terelion's sole discretion and subject to the following conditions: (i) a copy of the Return Note must accompany the Goods; (ii) the returning Goods will

be subject to a visual and technical inspection upon their receipt at Terelion's designated warehouse; (iii) returned Goods must be: (A) undamaged; (B) in their original packaging (where applicable); and (C) re-saleable as new; and (iv) the Goods must not have been fitted or otherwise used in any manner

- 8.5. The Purchaser acknowledges and agrees that: (a) Goods rejected by Terelion's receiving warehouse due to a non-compliance with the conditions specified in Clause 8.4 will be held by Terelion pending instructions from the Purchaser; and (b) Goods that have been rejected by Terelion and which have not been collected by the Purchaser will be disposed of if not collected by the Purchaser before the expiry of three (3) months from (and including) the date that Terelion received the Goods to its designated warehouse.
- 8.6. The parties agree that, where Terelion accepts the return of Goods, if the Goods are returned: (a) before the expiry of fourteen (14) Days from (and including) the date of the Return Note, but not later than thirty (30) Days from (and including) the date of the POD, the Purchaser shall be entitled to receive full credit for the invoiced value of the Goods in question; or (b) later than thirty (30) Days from (and including) the date of the POD, the Purchaser shall not be entitled to receive credit for the invoiced value of the Goods in question.
- 8.7. The parties agree that, in all cases, freight costs to Terelion's designated warehouse are for the Purchaser's account.

## 9. Price and payment

- 9.1. **Incoterms:** Unless otherwise specified in the Contract, all prices are quoted "Ex Works" (as per Incoterms 2020) and do not include freight, insurance, VAT, other taxes, customs, or excise levies or duties (or similar).
- 9.2. **Variations to an Order prior to delivery:** The Purchaser acknowledges and agrees that: (a) if variations should occur prior to delivery, the price may be amended by Terelion; (b) if the Purchaser requests a variation to the Order before: (i) delivery of the Goods; or (ii) performance of the Services or Digital Services, Terelion may, at its discretion accept or reject such request; (c) where an Order is varied, the price of the Order will increase or decrease (as the case requires) by an amount agreed between the parties or, failing such agreement, by an amount determined by Terelion acting reasonably; and (d) where the amount is to be determined by Terelion, Terelion will calculate the amount by reference to Terelion's then current price list, costs, expenses, losses, and damages suffered, off-site overheads, profit and such other reasonable rates and charges in connection with the variation.
- 9.3. **Taxation:** The parties agree that, with respect to VAT or other applicable taxation: (a) prices are quoted on a VAT-exclusive basis; (b) if in any jurisdiction VAT is payable by Terelion to a tax authority in relation to the supply, exportation and importation of the Goods, Services, or Digital Services, an amount equal to such VAT will be calculated and charged to the Purchaser as an additional amount; (c) to the extent that a payment to a party under or in connection with the Contract is calculated by reference to, or as a specified percentage of, another amount or revenue stream, that payment shall be calculated by reference to, or as a specified percentage of, the amount or revenue stream exclusive of VAT; (d) in addition to and without limiting the above, where a sale of Goods is treated as not subject to VAT on the basis that the Purchaser or its freight forwarder will move the Goods from one country to another country, the Purchaser will provide to Terelion, upon request, all transport related documentation and (if applicable) customs documentation to demonstrate the cross-border movement of the Goods and to pay the customs excise taxes to Terelion which may be assessed on it as the Importer of Record; (e) if the Purchaser fails to provide the requested documentation within the period of time requested, or the documentation is not of the standard required by the relevant tax authority, or the documentation indicates that: (i) the Goods were not moved crossborder and/or (ii) the Goods were not moved cross-border within the period of time required by law or tax authority practice; and/or (iii) the Goods were moved by a party other than the Purchaser or its freight forwarder without the written approval of Terelion, the Purchaser will pay to Terelion an amount equal to any VAT for which

Terelion is required to account to a tax authority in accordance with the operation of Clause 9.3(b) together with any penalties and interest imposed on Terelion by a tax authority in relation to that supply of Goods; and (f) this Clause 9.3 will continue to apply after expiry or termination of the Contract.

9.4. **Invoicing and payment:** The Purchaser agrees that: (a) unless otherwise specified in the Contract, Terelion will invoice the Purchaser for the Amount Payable upon delivery of the Goods, Services, or Digital Services (as the case may be); (b) the Purchaser will pay the Amount Payable (in full and without set off, withholding, or deduction) on or before the expiry of the Due Date; (c) if any Amount Payable is not paid by the Due Date, Terelion shall be entitled to charge and recover interest at the rate of 1.5% per month or part thereof on the Amount Payable overdue for the period between the Due Date until payment is made in full; (d) payment received from the Purchaser is valid once honoured or funds are cleared; (e) it shall indemnify (and keep indemnified) Terelion against any costs incurred by Terelion in connection with the Purchaser's failure to pay the Amount Payable before the expiry of the Due Date (including legal fees on an attorney and own client scale, collection charges, and debt collection agency fees) on a full indemnity basis. Unless both parties agree otherwise in writing, Buyer shall be required to pay any sales, use, excise, customs duties and other taxes arising from Buyer's purchase of Goods, which shall be billed as a separate line item on the invoice or included in the Price (as per the applicable Quote), unless a current and valid tax exemption certificate is provided at time of purchase. Buyer may be required to pay any late charge, interest, finance charge, or similar charge. Buyer's payment of the purchase price does not indicate its acceptance of the Goods or Equipment or Services or a waiver of any right of Buyer to test or inspect the Equipment, however, any rejection must be made within thirty (30) days of shipment. Payment terms shall be specified in the Order. Seller can suspend performance or terminate the Order for Buyer's failure to timely pay invoices. Notwithstanding the foregoing, Buyer shall not be obligated to pay invoices for Goods or Equipment on which a Return Material Authorization number has been issued or for which a Return Material Authorization request is pending.

9.5. **Failure to pay the Amounts Payable:** Without prejudice to Terelion's other rights or remedies available under the Contract (including under Clause 9.4), Terelion: (a) may without prior notice to the Purchaser suspend or terminate: (i) the supply of Goods, Services, or Digital Services; and (ii) the grant of any rights or licenses with respect to the Goods, Services, or Digital Services, where any Amount Payable is or remain(s) unpaid after the Due Date; and (b) shall be entitled to recover from the Purchaser all reasonably incurred costs and losses arising from suspension or termination.

#### 10. Goods - Retention of Title

- 10.1. The title in any Goods sold and delivered by Terelion to the Purchaser shall not pass to the Purchaser until the total Amount Payable for the Goods under the Contract (plus all accrued interest (if any) payable under Clause 9) has been paid in full.
- 10.2. Until title in any Goods sold and delivered by Terelion has passed to the Purchaser in accordance with Clause 10.1, the Purchaser shall: (a) keep those Goods separated and non-affixed from any other goods of the Purchaser so that they remain readily identifiable as Terelion's property; (b) maintain the Goods in satisfactory condition; (c) not remove, deface, or obscure any identifying mark or packaging on or relating to the Goods; and (d) notify any landlord of any premises leased by the Purchaser where the Goods are stored that the Goods are Terelion's property.
- 10.3. In addition to all other rights which Terelion has under the Contract or applicable Laws, Terelion will be entitled to enter the premises of the Purchaser (including leased premises) at any time (to the extent permissible by Law) to recover possession of the Goods that are subject to Clause 10.1.
- 10.4. The parties agree that, where Terelion enters the premises of the Purchaser to take possession of the Goods and it is not possible to identify which goods are Goods owned by Terelion but are in the possession of the Purchaser, the Goods will be deemed sold to the

Purchaser in the same sequence that the Purchaser took delivery of the Goods.

- 10.5. If the quantity of the Goods exceeds the amount owing, Terelion will be entitled to determine which of the Goods it claims ownership in.
- 10.6. The Purchaser shall: (a) keep the Goods adequately insured against all risks (for goods of that kind) from the point in time that risk in the Goods passes to the Purchaser under Clause 5.1 and until the point in time in which legal title to the Goods passes to the Purchaser under Clause 10.1; and (b) if requested by Terelion, provide Terelion with a copy of the relevant insurance policies promptly and without delay.
- 10.7. Without limiting any other of Terelion's rights or remedies, if, before title to the Goods passes to the Purchaser under Clause 10.1, the Purchaser becomes subject to an Insolvency Event then: (a) the Purchaser's right to re-sell the Goods or use them in the ordinary course of the Purchaser's business shall cease immediately; and (b) Terelion may at any time: (i) require the Purchaser to deliver up all Goods in its possession that have not been re-sold or irrevocably incorporated into another product; and (ii) if the Purchaser fails to comply with Clause 10.7(b)(i), enter any premises of the Purchaser (or of any third party where the Goods are stored) in order to recover them.

#### 11. Goods - Terelion Warranty

- 11.1. The parties agree that the Terelion Warranty applicable at the date of Order Acceptance shall: (a) if within the scope of the Terelion Warranty, apply to the Goods supplied by Terelion; and (b) at the Purchaser's request, be provided or made available to the Purchaser at the time of the Contract.
- 11.2. To the extent that the Terelion Warranty does not apply to the Goods and subject to Clause 11.4, Terelion warrants that the Goods supplied (which, for the avoidance of doubt, excludes commissioning of the Goods) shall, under proper use, be free from defects in materials and workmanship and substantially conform to the Contract for a period of three (3) months (or two (2) months in the case of chemical resins and resin capsules) from (and including) the Delivery Date.
- 11.3. For the purposes of Clause 11.2: (a) "**proper use**" means installation, commissioning, operation and maintenance in accordance with Terelion's relevant documentation; and (b) "**defects**" means any defect or omission in materials or workmanship and any nonconformity with the specifications for the Goods agreed in the Contract (excluding trivial or immaterial defects not affecting functionality or use).
- 11.4. In no event does Terelion give any warranty to parts or components manufactured and/or supplied by any third party, unless otherwise agreed in the Contract.
- 11.5. To the fullest extent permissible under applicable Law: (a) the warranties given in the Terelion Warranty and in Clause 11.2 are in lieu of all other warranties or conditions express, implied or statutory, including warranties of satisfactory quality and fitness for a particular purpose and any remedies for consequential or other loss against a manufacturer of the Goods; and (b) no other warranties express or implied are given unless they are expressly given by Terelion in writing.
- 11.6. Subject to Clause 18.1 (*Liability*), Terelion's obligations under this Clause 11 shall be limited (at Terelion's option): (a) as described in the Terelion Warranty; and (b) in all other cases, to making good by repair, replacement, or refund of any Goods in which any defect appears.
- 11.7. Any warranty claim must be notified in writing by the Purchaser to Terelion within the applicable warranty period.

#### 12. Services

- 12.1. Subject to Clause 12.4, Terelion shall perform the Services: (a) using reasonable skill and care; (b) substantially in accordance with the Service descriptions (if any) specified in the Contract; (c) in accordance with all applicable Laws that bind Terelion as a provider of the Services; and (d) using reasonable endeavours to meet the performance dates specified in the Contract provided that the Purchaser acknowledges and agrees that, unless expressly agreed otherwise in the Contract: (i) any such dates will be estimates only; and (ii) time shall not be of the essence of the Contract.

12.2. The Purchaser shall, in connection with the Services: (a) perform its obligations under the Contract (including, in particular, Clause 22 (*Unsafe conditions and applicable Laws*)); (b) obtain and maintain all necessary licences, consents, and permissions necessary for it to provide or make available the Purchaser's materials and facilities to Terelion; (c) provide, for Terelion, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Purchaser's premises, office accommodation, and other facilities as reasonably requested by Terelion from time to time; (d) provide Terelion with, in a timely manner, all reasonably requested assistance and materials requested by Terelion in connection with the Services; (e) inform Terelion of all health and safety and security requirements that apply to the Purchaser's premises; (f) use the latest end-point security and versions of anti-virus definitions and software available from an industry accepted anti-virus software provider in respect of its computer systems, technology and network infrastructure that Terelion is required to use in connection with the Services or which connect to Terelion's own systems; (g) perform any other responsibilities (as specified in the Quote, Order Acceptance, or elsewhere in the Contract); and (h) use the Goods and any outputs or deliverables arising from the Services in accordance with Terelion's documented instructions, together, the "**Purchaser Obligations**".

12.3. To the fullest extent permitted by applicable Law and except to the extent expressly set out in Clause 12.1: (a) Terelion does not give any warranties, representations, or other commitments to the Purchaser with respect to the Services; and (b) all other warranties, conditions, representations, and terms (whether written or oral, express or implied by statute, common law, custom, trade usage, course of dealing or otherwise, including as to satisfactory quality, fitness for a particular purpose or use, accuracy, adequacy, completeness or timeliness) are expressly excluded.

12.4. Terelion will not be in breach of the Contract and, subject to Clause 18.1 (*Liability*), will have no liability to the Purchaser (whether in contract (including under any indemnity or warranty), in tort (including negligence), for breach of statutory duty, or otherwise) arising under or in connection with the Contract for any loss or damage arising from any failure by Terelion (or its personnel) to perform any obligations under the Contract if, and to the extent, such failure: (a) results from a failure by the Purchaser (or its personnel) to perform a Purchaser Obligation; (b) is caused by any other act, omission, or default of the Purchaser (or its personnel) in the performance of a Purchaser Obligation; or (c) Terelion following the Purchaser's designs, specifications, or instructions.

12.5. In the event of any failure by the Purchaser (or its personnel) to perform a Purchaser Obligation, Terelion may, and without prejudice to any other right or remedy available to it, equitably adjust: (a) the estimated due date for the delivery of the Services (including any deliverable) or Goods; and (b) any other timetable for delivery agreed between the parties from time to time.

### 13. Intellectual Property Rights

13.1. Terelion (or its licensors): (a) is and will remain the owner of the Terelion IPR; and (b) may freely incorporate into the Terelion IPR any feedback or suggested improvements provided by, or on behalf of, the Purchaser.

13.2. Except as expressly stated in the Contract, the Purchaser shall have no right or interest in the Terelion IPR.

#### Licence to use Project IPR

13.3. Upon Order Acceptance and, subject to the full payment of the Amount Payable for the relevant Goods or Services, Terelion grants the Purchaser a non-exclusive, non-transferable, non-assignable, non-sub-licensable licence to use the Project IPR (which shall exclude the Digital Services), strictly limited to the extent necessary for installing, and operating the Goods originally delivered by Terelion, in accordance with manuals and use instructions supplied by Terelion, and for receiving the Services and for no other purposes whatsoever.

13.4. Unless expressly agreed otherwise between the parties in writing, the limited licence described in Clause 13.3 shall continue unless terminated in accordance with these ToS.

13.5. Nothing in the Contract permits the Purchaser to copy, reproduce, modify, adapt, alter, translate, reverse engineer, 3D copy/print, or create derivative works from any Goods or Services or of the Terelion IPR, in whole or in part, without Terelion's prior written consent.

13.6. If the Purchaser uses any of the Terelion IPR in breach of the Contract, Terelion may immediately terminate or revoke such rights, in whole or in part in its sole discretion.

#### Licence to use the Digital Service

13.7. The Purchaser shall be permitted to use the Digital Service and Software as described in Clause 17 (*Software*) or otherwise as described in the separate terms of use applicable to the relevant Digital Services provided or made available to the Purchaser by Terelion in advance of the Digital Services.

#### General

13.8. The Purchaser acknowledges and agrees that the Goods, Services, and Digital Services comprise commercially valuable, proprietary assets and trade secrets of Terelion or its licensors, the design and development of which reflect the effort of skilled developers and the investment of considerable time and money by or on behalf of Terelion.

13.9. If (at any time): (a) through use of the Goods, Services, or Digital Services; (b) by operation of applicable Law; or (c) otherwise, the Purchaser comes to own Intellectual Property Rights in the Terelion IPR then the Purchaser shall (promptly on

Terelion's request and without delay) assign (or procure the assignment of) such

Intellectual Property Rights to Terelion and, to the extent permitted by applicable Law, waive (or procure the waiver of) all moral rights (and analogous rights) worldwide in connection with such Intellectual Property Rights.

### 14. IPR Indemnity

14.1. Subject to Clauses 14.2, 14.3, 14.4, 14.5, and 18 Terelion shall indemnify the Purchaser against any claim made against the Purchaser by a third party to the extent that such claim alleges that the Purchaser's use of the Goods, Digital Services, or Services (excluding, in each case, any third party products or components) in accordance with the Contract infringes any Intellectual Property Rights belonging to that third party (the "**Terelion Indemnity**").

14.2. The Terelion Indemnity: (a) applies only to loss or damage that is: (i) awarded to the third party and against the Purchaser by a court or other body having competent jurisdiction over the indemnified claim; or (ii) agreed by Terelion to be paid to the third party in settlement of the indemnified claim; (b) is subject to: (i) the Purchaser giving Terelion prompt notice of the indemnified claim (and in any event ensuring that notice is given within five (5) Days of the Purchaser becoming aware of, or being notified of, the indemnified claim); (ii) the Purchaser providing reasonable co-operation to Terelion in the defence and settlement of the indemnified claim; (iii) the Purchaser taking all reasonable and timely action necessary to mitigate all loss, damage, costs, and expenses incurred by the Purchaser as a result of the indemnified claim (including taking such reasonable actions as Terelion may request to avoid, dispute, resist, appeal, compromise, or defend any such indemnified claim); and (iv) Terelion being given sole authority to defend and settle the indemnified claim.

14.3. In the defence or settlement of any claim to which the Terelion Indemnity applies, Terelion may: (a) procure a right for the Purchaser to continue using the infringing material or service; (b) replace or modify the infringing materials or service so that it becomes non-infringing; or (c) if such remedies are not reasonably available, terminate or suspend the Contract on notice to the Purchaser without any additional liability to the Purchaser.

14.4. Where Clause 14.3 applies, Terelion shall provide the Purchaser with a refund of the Amount Payable for the infringing material or service to the extent not delivered or received by the Purchaser.

14.5. In no event shall Terelion, its Affiliates, or their employees, agents, or subcontractors be liable to the Purchaser to the extent that the indemnified claim is based on any one (or more) of the following: (a) a modification of the Goods, Services, or Digital Service (or their outputs) by anyone other than Terelion or its representatives; (b) an infringing third party component or product; (c) use of materials, documentation, or data provided or made available by the Purchaser; (d) compliance with the Purchaser's instructions, specifications, or other requirements; (e) the Purchaser's use of the Goods, Services, or Digital Service in breach of the Contract; or (f) a breach of a Purchaser Obligation.

- 14.6. The Purchaser shall have no rights or remedies in respect of infringement of any third party Intellectual Property Rights except as expressly set out in this Clause 14.

### 15. Confidential Information

- 15.1. The Purchaser agrees: (a) to only use Terelion's Confidential Information to exercise its rights and perform its obligations under or in connection with the Contract; and (b) that any information disclosed by or on behalf of Terelion is, and remains, Terelion's property at all times.
- 15.2. Each party undertakes to the other that it shall: (a) not, at any time and except as permitted by Clause 15.3, disclose any Confidential Information belonging to the other to a third party (including information concerning technical solutions or problems or the results of testing, which information shall be construed as Terelion's Confidential Information); and (b) hold the other party's Confidential Information in confidence using at least the same degree of care (but not less than a reasonable degree of care) to safeguard and prevent disclosure to third parties as it applies to its own information of a similar nature.
- 15.3. Subject to Clause 19 (*Sanctions, Export Laws, End-User assurance etc.*), each party may disclose the other party's Confidential Information: (a) to its Affiliates or Representatives who need to know the Confidential Information for the purposes of exercising that party's rights or carrying out that party's obligations under or in connection with the Contract, provided that: (i) an Affiliate or Representative receiving Terelion's Confidential Information may not be a direct competitor of Terelion without Terelion's express prior written consent; and (ii) the party making the onward disclosure: (A) takes all steps necessary to ensure that its Affiliates or Representatives are aware of, and comply with, the confidentiality obligations contained in this Clause 15 as though they were a party to the Contract; and (B) shall be responsible for its Affiliates' or Representatives' acts or omissions and compliance with the confidentiality obligations set out in this Clause 15; and (b) as may be required by Law, a court of competent jurisdiction, or any governmental or regulatory authority.
- 15.4. The obligations imposed by this Clause 15 shall not apply to any Confidential Information which is or becomes: (a) in the public domain other than as a result of the breach of an obligation under the Contract; (b) lawfully acquired from a third party who owes no obligation of confidence in respect of the information; (c) independently developed by the recipient without reference to the Confidential Information; (d) in the recipient's lawful possession prior to receipt; or (e) required to be disclosed by mandatory Law or by order of a judicial or governmental or regulatory authority.
- 15.5. Each party reserves all rights in its Confidential Information and no rights or obligations in respect of a party's Confidential Information other than those expressly stated in the Contract are granted to the other party or shall be implied from the Contract.

### 16. Data

#### Input Data and Output Data

- 16.1. The Purchaser acknowledges and agrees that Terelion may: (a) collect, store, analyse, and process any Input Data, Output Data, and other metrics and logs (i.e., use data) collected by the Goods in order for Terelion to: (i) provide the Purchaser with the Digital Services (including the Equipment Monitoring Services and any services in relation or in connection thereto provided by Terelion or its Representatives); and (ii) develop Terelion Data to use for the Purpose; and (b) permit its Distributors permission to access and process Output Data solely in connection with the Contract and for the purpose of enabling such Terelion Distributors perform services in connection with the Contract.
- 16.2. The Digital Services (including the Equipment Monitoring Service) may include monitoring: (a) equipment hours; and (b) equipment productivity, or assisting or conducting aftermarket services or similar.
- 16.3. The Purchaser may use Input Data and Output Data for its own internal business purposes provided that the Purchaser shall not, without obtaining Terelion's prior written consent, disclose or otherwise make available any Input Data or Output Data (in whole or in part and regardless of format) to any third party (excluding its Affiliates); provided, however, that the Purchaser may disclose Input Data or Output Data to its third party service providers who: (a) have need to know the Input Data or Output Data in order to service the Goods for and on behalf of the Purchaser; and (b) have entered into written confidentiality undertakings with the Purchaser that are no less protective of the Input Data and Output Data as those contained in the Contract and prevent further onward disclosure.
- 16.4. Terelion shall: (a) in connection with, and during the term of, the Equipment Monitoring Service; and (b) following the Purchaser's written request, provide or otherwise make available to the Purchaser a copy of any Purchaser-specific Input Data or Output Data stored by Terelion from time to time.
- 16.5. Except as may be permitted in separate terms of use applicable to the Digital Services, the Purchaser will not install any third party hardware or software in, or onto, the Goods, nor shall it connect the Goods to any third party computer or automation system without obtaining Terelion's prior written consent.
- 16.6. Terelion shall apply the same security and confidentiality standards to the Input Data and Output Data as it applies to its own commercially sensitive data.
- #### Equipment Monitoring Service
- 16.7. The Purchaser acknowledges and agrees that: (a) the Equipment Monitoring Service is a Digital Service provided by Terelion based on Input Data received by Terelion; and (b) Terelion does not warrant (and cannot guarantee) that the Equipment Monitoring Service completely and accurately reflects the factual condition of the Connected Equipment; and (c) it is the Purchaser's sole responsibility to: (i) review the information in relation to the Equipment Monitoring Service; and (ii) confirm the actual condition of the Connected Equipment.
- 16.8. If, and to the extent, Input Data and/or Output Data contains any Personal Data, both parties agree to comply with all applicable requirements of the Data Protection Legislation.
- 16.9. For the purposes of the Data Protection Legislation, the Purchaser is the data controller and Terelion is the data processor for such Personal Data.
- 16.10. For the avoidance of doubt, the Purchaser is solely responsible for ensuring that:  
(a) it has provided all necessary notices to all relevant data subjects; and (b) if deemed necessary by the Purchaser, all appropriate consents have been obtained to enable the lawful transfer to, and processing of, Input Data and/or Output Data by Terelion and its Representatives (including Distributors) as described in the Contract.
- 16.11. The Purchaser hereby agrees that Terelion, at its discretion and subject to Clause 16.8, may engage any subcontractor inside or outside the United States as a sub-processor for the processing of Personal Data hereunder; provided that Terelion shall remain responsible in relation to the Purchaser for the acts and omissions of such subcontractors.
- 16.12. Except as expressly set out in the Contract, Terelion: (a) makes no separate representation, warranty, or statement concerning the Digital Service, Equipment Monitoring Service, or software, their use, performance, results obtained, integration, satisfactory quality, suitability for any Purchaser requirements or given or intended purpose or situation, or information technology systems or its virus-free, error free or uninterrupted operation, or that the Digital Service, Equipment Monitoring Service, or software will not affect or disrupt any information technology systems; (b) does not provide any representation or warranty as to the accuracy of any Input Data and/or Output Data and makes no statement about the suitability of the Digital Service or Equipment Monitoring Service for a given situation; and (c) shall be under no obligation to store any Purchaser-specific data except for the Input Data.
- 16.13. The Purchaser agrees to indemnify (and keep indemnified) and fully reimburse Terelion from and against any and all actions, claims (including counterclaims), proceedings, costs (including all reasonable legal costs), losses, damages, fines, penalties (including punitive or exemplary damages) and all other liabilities resulting from any obligations, acts and/or omissions by the Purchaser under this Clause 16 except where and to the extent that such violation is due to Terelion's breach of its obligations under Clause 16.6.

## 17. Software

- 17.1. Where the sale of any Goods, Services, Digital Services, or Connected Equipment also comprises the provision of software or systems (“Software”) then, subject to any alternative licence specified in any separate terms of use applicable to the Digital Services, the Purchaser is granted, during the term of the Contract, a non-exclusive, non-transferable, non-sublicensable, and revocable right to use the relevant Software in accordance with the terms set forth in the Contract (while title to and any and all rights relating to the Software shall always remain vested in Terelion).
- 17.2. The Purchaser shall not: without the prior written consent of Terelion; or except to the extent expressly permitted under applicable Law: (a) format, convert, adapt, modify, reverse engineer, decompile, or disassemble the Digital Service or any Software or remove any Software from the Goods or Connected Equipment; (b) make copies of the relevant Digital Service or Software; (c) sell, licence, transfer, or otherwise dispose of, or distribute, the Digital Service or Software; or (d) use the Digital Service or Software for any other purpose than to the extent necessary for installing, operating and maintaining the Goods.
- 17.3. The Purchaser shall procure and ensure that its Representatives comply with Clause 17.2.
- 17.4. The Purchaser acknowledges and agrees that, as between the parties, the Digital Service (including the Equipment Monitoring Service) is provided to the Purchaser only and cannot be assigned by the Purchaser without Terelion’s prior written consent.
- 17.5. The Purchaser shall notify: (a) Terelion if it sells, leases, rents, or otherwise assigns or transfers the Connected Equipment; and (b) the new customer and/or user that the Connected Equipment is connected to Terelion’s systems.
- 17.6. Other than the Connected Equipment, the Purchaser must have computer and network infrastructure that meets the requirements specified by Terelion at Order Effective Date (the “**Minimum Technical Requirements**”).
- 17.7. The Purchaser acknowledges and agrees that: (a) the performance of the Digital Service (including Equipment Monitoring Service) is dependent upon the Purchaser’s information technology equipment meeting the Minimum Technical Requirements; (b) the Purchaser must throughout the term of the Contract ensure that its computing systems (including the network infrastructure) meets the Minimum Technical Requirements.
- 17.8. The Purchaser acknowledges and agrees that Connected Equipment and Digital Services may contain: (a) third party software; and (b) software that is subject to open-source licences, and that such third party software and open-source software is provided “as is” and “as available” and without any representation or warranty of any kind.
- 17.9. The Purchaser shall comply with any licence terms applicable to third party software and open-source software made known to it by Terelion from time to time and agrees that such licence terms shall, unless otherwise expressly stated in the Contract, apply in lieu of these ToS as regards the Purchaser’s use of such third party software and open-source software.
- 17.10. Any license granted or implied under the Contract can be revoked at any time.
- 17.11. The Purchaser agrees to indemnify, defend, and hold harmless (and keep indemnified) Terelion and its Representatives from and against all liabilities, costs and expenses suffered or incurred by Terelion or its Representatives (including, without limitation, against all reasonable legal fees, arising out of or in connection with the delivery of or use of the Software by the Purchaser) except to the extent that any liability, loss or damage is solely and directly caused by negligence of Terelion.

## 18. Liability

- 18.1. Nothing in the Contract shall limit or exclude (or seeks to limit or exclude):
  - 18.11. either party’s liability to the other (to a greater extent than is permitted by applicable Laws) for any loss or damage resulting from: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; or (c) any other matter in respect of which loss or damage may not be limited or excluded under applicable Laws;

- 18.12 the Purchaser’s liability to Terelion: (a) to pay the Amounts Payable (including the price, freight, insurance, VAT, other taxes, customs or excise levies or duties (or similar)); or (b) for loss or damage arising: (i) under an indemnity given in the Contract; (ii) from a breach of applicable Laws (including arising from Unsafe facilities or activities, or in contravention of Export Laws, Sanctions, or Data Protection Legislation); or (iii) from any breach of Clause 15 (*Confidential Information*).
- 18.2. Subject to Clause 18.1, neither party shall be liable to the other (or to any third party claiming under or through the other) under any cause of action (whether such cause of action arises in contract (including under an indemnity or warranty), in tort or delict (including negligence or under statutory duty), for breach of statutory duty, or otherwise) for any loss or damage to the extent comprising: indirect, incidental, special, or consequential loss or damage; or 18.2.1 punitive or pure economic loss or cost; 18.2.2 loss of anticipated savings; 18.2.3 loss of contract or business opportunity; 18.2.4 loss of production or use; 18.2.5 loss or depletion of goodwill; 18.2.6 loss of profit, sales, revenue, or anticipated profit, sales, or revenue; 18.2.7 loss, damage, or corruption of data, in each case, whether arising directly or indirectly under or in connection with the Contract and whether or not reasonably foreseeable, reasonably contemplatable, actually foreseen, or actually contemplated by a party at the Order Effective Date.
- 18.3. **Goods:** Subject to Clauses 6.4, 18.1, and 18.2, Terelion’s total aggregate liability to the Purchaser (and to any third party claiming under or through the Purchaser) shall not, with respect to liability arising from or caused by the supply and sale of Goods in breach of the Contract, exceed one hundred percent (100%) of the Amounts Payable that have been paid by the Purchaser for the Goods giving rise to the claim.
- 18.4. For the purpose of Clause 18.3, the Amounts Payable shall be calculated: (a) less any paid Delay Payments and reduction or reduced market value for replaced or terminated Goods claimed by the Purchaser; and (b) inclusive of all Amounts Payable for the initial commissioning of the Goods except in cases where the commissioning of the Goods is provided by Terelion as a Service under a separate Contract.
- 18.5. **Services and Digital Services:** Subject to Clauses 18.1 and 18.2, Terelion’s total aggregate liability to the Purchaser (and to any third party claiming under or through the Purchaser) shall not, with respect to liability arising from or caused by the provision of Services or Digital Services in breach of the Contract, in each successive period of twelve (12) months from (and including) the Order Effective Date (each a “**Contract Year**”) and in respect of all causes of action arising in that Contract Year (as determined by the date on which the liability giving rise to the cause of action arose), exceed one hundred percent (100%) of the Amounts Payable that have been paid by the Purchaser for the Services or Digital Services giving rise to the claim under the Contract for the Contract Year in question.
- 18.6. The parties agree that the provisions of this Clause 18 (*Liability*) are considered by them to be reasonable in all the circumstances.

## 19. Sanctions, Export Laws, End-User Assurance etc.

- 19.1. The Purchaser represents and warrants that neither it nor any Related Entity or Representative (including its Related Entities) is currently a Sanctioned Person or otherwise the subject or the target of any Sanctions.
- 19.2. The Purchaser represents and warrants, from the Order Effective Date and on an ongoing basis, that it shall: (a) strictly comply with, and adhere to, all Sanctions; (b) not engage in any activity, practice or conduct involving a Sanctioned Person or a Sanctioned Territory; (c) not engage in activity, practice, or conduct in any manner that would breach Sanctions, cause Terelion or its Related Entities to breach Sanctions, or that could expose it, Terelion or their Related Entities to the risk of adverse measures pursuant to any Sanctions (including being designated as a Sanctioned Person); (d) not directly or indirectly (even when under threat of deterring financial liability) sell, re-sell, circumvent, transfer, retransfer, provide, export, reexport, divert, loan, lease, consign, or otherwise release or dispose of any Goods or

Confidential Information for military end-use or to a military end user; to, via or for the benefit of a Sanctioned Person; or to a Sanctioned Territory; (e) ensure that the Goods and Confidential Information will not be used, re-exported, transferred, or retransferred for any purpose connected with chemical, biological, or nuclear weapons, or missiles capable of delivering such weapons; and the Goods, or any replica of them, will not be used in any nuclear explosive activity or unsafeguarded nuclear fuel cycle. The Purchaser understands and acknowledges that Terelion is not responsible for any Goods or Confidential Information that are subsequently exported or re-exported by the Purchaser or sold to another person and/or representative, domestic, or foreign. In the event of such a post-sale re-export, transfer or retransfer of the Goods or Confidential Information, the Purchaser is responsible for complying with all Sanctions and Export Laws, including obtaining export licenses where required; and (f) maintain its own policies and procedures to ensure compliance with Sanctions and Export Laws (and the Sanctions-related / Export Laws- related provisions in the Contract).

- 19.3. The Purchaser: (a) represents and warrants that it will take all reasonable measures to ensure that its employees, subcontractors, agents, intermediaries, and Representatives will comply with the terms of the Contract; and (b) shall cause all subcontractors to give and enter into representations, warranties, and undertakings substantially equivalent to those set out in Clause 19.2. For the purposes of this Clause 19.3, reasonable measures includes (but is not limited to) policies, procedures, and training relating to compliance with Sanctions, Export Laws, and the Sanctions-related provisions of these ToS.
- 19.4. Nothing in the Contract requires either party to take any action, or refrain from taking any action, where doing so would be prohibited by, or subject to penalty under any Sanctions, or where doing so would expose the party or its Related Entities to the risk of adverse measures pursuant to any Sanctions.
- 19.5. Each party agrees to take advantage of any general licence to lawfully allow for the performance of the terms of the Contract if such performance is affected by Sanctions. For the avoidance of doubt, nothing in the Contract, or otherwise, requires Terelion to apply for any specific licence or authorisation in the event that performance of the terms of the Contract becomes unlawful pursuant to Sanctions.
- 19.6. If the Purchaser breaches any representation or warranty set out in this Clause 19 or, in Terelion's reasonable opinion, any such breach is likely to occur, the parties agree that Terelion may terminate or suspend (at its own discretion) its relationship with the Purchaser immediately, and that Terelion shall not be liable toward the Purchaser or any third party for any subsequent non-performance by Terelion under the Contract, and that the Purchaser shall indemnify and hold Terelion harmless from any claims, losses, damages, fines, or penalties relating to such non-performance or otherwise arising from a breach of representation or warranty.
- 19.7. The Purchaser shall notify Terelion immediately (and no later than within seventy two (72) hours of knowing or suspecting the breach) of any known or suspected breach (whether by the Purchaser or any other entity or person) of any representation or warranty set out in the Clauses above or it becomes aware that performance of the Contract, or any actions taken in relation to or pursuant to the Contract have, or may lead to, a breach of this Clause 19.
- 19.8. If Terelion elects to suspend the Contract pursuant to Clause 19.7: (a) Terelion shall cease performance under the Contract with immediate effect upon serving written notice to the Purchaser; (b) any suspension will last for a period of up to one hundred and twenty (120) Days. If,

after this period, Terelion is unable to confirm that the Purchaser is in compliance with this Clause 19, Terelion may elect to terminate the Contract with immediate effect; and (c) for the suspension to cease having effect, Terelion must serve the Purchaser with a written notice confirming that the suspension period has come to an end.

## 20. Termination

- 20.1. If: the Purchaser breaches any provision of the Contract (including a provision relating to the payment of money); or the Purchaser suffers or becomes subject to an Insolvency Event; or an event giving rise to a termination right described in the Contract occurs, then Terelion may, at its sole discretion, upon written notice to the Purchaser: (a) immediately withdraw any Facility which may have been extended to the Purchaser and require the immediate payment of all moneys owed to Terelion by the Purchaser, whether or not they were due for payment at that time or due for payment in the future; (b) immediately suspend the performance of the Contract (including any licence granted under the Contract); (c) immediately terminate (without penalty) the Contract; (d) immediately take all possible action to protect its interest in the Goods and the Terelion IPR; and/or (e) recover all costs and losses associated with such termination action.
- 20.2. Termination of the Contract (howsoever arising) shall be without prejudice to the accrued rights and liabilities of either party as at the termination date.
- 20.3. Terelion agrees to store and to allow the Purchaser to download or otherwise retrieve, Purchaser-specific Input Data and/or Output Data provided that such request has been made to Terelion in writing and within a maximum of thirty (30) days from (and including) the date on the Contract terminated or expired.
- 20.4. The Purchaser may terminate the Contract with immediate effect by giving written notice to Terelion if Terelion commits a material breach of the Contract that is not so remedied within forty five (45) Days from written notice requiring remedy of the material breach.
- 20.5. For the purposes of Clause 20.4, the Supply of defective Goods shall not in and of itself be construed as a material breach of the Contract and, in such cases, the Purchaser's rights and remedies available under the Terelion Warranty and the provisions of Clause 11 (Terelion Warranty) apply.

## 21. Force Majeure and Specified Risks

### Force Majeure

- 21.1. The Purchaser acknowledges and agrees that Terelion shall not be: (a) in breach of the Contract; or (b) liable to the Purchaser under the Contract (or otherwise) for any default or delay in the performance of its obligations under the Contract if, and to the extent, the breach, default, or delay is caused or contributed to by an event of Force Majeure.
- 21.2. Where an event of Force Majeure occurs: (a) Terelion shall be excused from further performance or observance of the obligations in the Contract impacted by the event of Force Majeure for so long as the circumstances causing the event of Force Majeure prevail; (b) Terelion shall be entitled to receive an equitable adjustment to any milestones or delivery dates impacted by the event of Force Majeure; and (c) Terelion shall, as soon as is reasonably practicable: (i) notify the Purchaser of any known consequences to the supply of the Goods or Services (including transport and logistics and their costs) impacted by the event of Force Majeure; and (ii) give the Purchaser reasonable details of the likely consequences of the event of Force Majeure, and, with respect to the foregoing, Terelion (acting reasonably) reserves the right to pass through such cost to the Purchaser provided that any increase in costs will be calculated in accordance with any rates specified in the Contract, or if there are no rates, by a reasonable amount.
- 21.3. If a Force Majeure event prevents, hinders, or delays Terelion's performance of its obligations for a continuous period of one hundred and eighty (180) Days or more, then either party may terminate the Contract impacted by the event of Force Majeure by giving two (2) weeks' written notice to the other party.

### Specified Risks

- 21.4. The Purchaser agrees that: (a) given the nature of the Specified Risks; and (b) without prejudice or limitation to the generality of Clauses 21.1 to 21.3 (inclusive), Terelion's performance or observance of its obligations under the Contract may be impacted by a Specified Risk.
- 21.5. The Purchaser agrees that, on the occurrence of a Specified Risk, Terelion may, acting reasonably, require equitable adjustments to the Contract (including to milestones, delivery dates, and prices) to the extent necessary to compensate for the consequences of the Specified Risk.
- 21.6. Terelion will inform the Purchaser of any adjustments to delivery dates, milestones, prices, transportation costs, and/or other applicable adjustments, as well as any expected delivery delays, as soon as reasonably practicable after becoming aware of the relevant cost increase or disruption.

## 22. Unsafe conditions and applicable Laws

- 22.1. The Purchaser shall ensure that it complies with all applicable Laws relating to or concerning: (a) the environment and emissions; (b) occupational health and safety; (c) sustainability; (d) the operation of plant and machinery; and (e) hazards and hazardous substances, and shall have and maintain all appropriate procedures and policies required by applicable Law.
- 22.2. Notwithstanding the generality of Clause 22.1, the Purchaser shall: (a) take all steps necessary to prevent the occurrence of Unsafe conditions or activities; and (b) notify Terelion if it observes, reasonably suspects, or becomes aware of an Unsafe condition or activity.
- 22.3. If Terelion identifies an Unsafe condition as described in Clause 22.2, Terelion may require the Purchaser to remove or, to the extent reasonably possible, mitigate the effect of the Unsafe condition, and the Purchaser must comply with that request promptly and without delay.
- 22.4. Terelion reserves the right to suspend the delivery of Goods or performance of Services or Digital Services to the Purchaser where any Unsafe condition exists until such time as the Unsafe condition has been rectified to Terelion's satisfaction.
- 22.5. The Purchaser shall ensure that: (a) it notifies Terelion of all Unsafe conditions or activities of which it becomes aware (including those within its control) promptly and without delay (and immediately where the Unsafe condition or activity may risk the health or safety of Terelion's Representatives); and (b) all relevant personnel are informed of, and comply with: (i) all relevant Laws; and (ii) any Terelion protocols, codes of conduct, policies, or procedures notified to the Purchaser (which may include health and safety requirements, machine operation instructions or manuals, security policies, employee conduct requirements, sustainability and environment policies) from time to time in connection with the Contract.

## 23. Applicable Laws Indemnity

- 23.1. The Purchaser shall indemnify Terelion, its Affiliates, and their Representatives and Related Entities (and keep such persons indemnified) for itself and on behalf of its Related Entities and Representatives from and against all and any Liabilities suffered or incurred in any jurisdiction by Terelion or its Affiliates or any of its Related Entities or Representatives in relation to: (a) any failure by the Purchaser to comply with Clause 19 (Sanctions, Export Laws, and End-User Assurances etc.), or Clauses 24.3 (Anti-bribery), 24.4 (Modern Slavery), or 24.5 (Anti-facilitation of tax avoidance), including Liabilities relating to any steps or actions which are required to be taken by Terelion to remedy any such failures; or (b) a breach of the applicable Laws described therein.
- 23.2. For the purposes of this Clause 23: (a) "Liabilities" means all Claims which may be alleged, threatened, made or brought by or against Terelion and/or its Affiliates (or any of its Related Entities or Representatives) and all Losses which may be suffered or incurred by Terelion and/or its Affiliates (or any of its Related Entities or Representatives); (b) "Claims" means any actual or potential claims, suits, actions, proceedings or investigations (whether by any investigative body, Sanctions Authority or otherwise), demands, judgments or awards; and (c)

"Losses" means any losses, liabilities, damages, costs, charges or expenses (including reasonable professional fees incurred in investigating or defending any claim or proceeding whether such claim or proceeding is successfully defended or not), fines or penalties; and including all Losses which it may incur in investigating, considering, responding to, disputing, defending or settling any Claim (whether or not Terelion and/or its Affiliates or any Related Entity or Representative is an actual or potential party to such Claim) or in establishing its right to be indemnified pursuant to the Contract.

## 24. Miscellaneous provisions

- 24.1. Severability: If any provision of the Contract is found by a court or administrative body having competent jurisdiction over the Contract to be wholly or partly illegal, invalid, or unenforceable then that provision (or the part that is illegal, invalid, or unenforceable) shall be: (a) modified to the extent necessary to give effect to the commercial intention of the parties; or (b) where the above is not possible, treated as deleted from the Contract, provided that a deletion made under Clause 24.1(b) shall not affect the validity or enforceability of the remaining provisions (or part provisions) of the Contract.
- 24.2. Exclusive and cumulative remedies: Except as otherwise expressly provided in the Contract (including as a sole or exclusive remedy): (a) no right, power, privilege, or remedy conferred is intended to be exclusive of any other right, power, privilege, or remedy; and (b) remedies provided under the Contract shall be cumulative and in addition to, and not in lieu of, any other remedies available to either party at Law, in equity, or otherwise.
- 24.3. Code of conduct and compliance with anti-bribery Laws: The Purchaser shall at all times comply with: (a) the Terelion Code of Conduct (a copy of which is available on request); and (b) all applicable Laws relating to anti-bribery and anti-corruption (including anti-money laundering) including the d the US Foreign Corrupt Practices Act as amended from time to time).
- 24.4. Modern slavery: Without prejudice to any other provision within the Contract, the Purchaser shall, at all relevant times: (a) a) comply with the Terelion Code of Conduct relating to modern slavery or human trafficking as is notified to the Purchaser by Terelion from time to time; (b) immediately notify Terelion in writing if it has reason to believe that it, or any member of its supply chain, is in breach of, or is likely to breach any provisions of this Clause 24.4 (or would do so if it were a party to the Contract), or if it receives a communication from any person alleging breach of Clause 24.4; (c) retain detailed, accurate, and continuously maintained records setting out: (i) its staff hiring procedures; (ii) its supplier and sub-contractor selection processes; and (iii) the steps it takes to ensure that it, and each member of its supply chain, is not engaged in any activity directly or indirectly, is involved with human rights violations, including but not limited to, human trafficking, human slavery, or child labor and that it is in compliance and will comply with the Terelion Code of Conduct, and shall promptly provide copies of such records to Terelion at Terelion's request.
- 24.5. Anti-facilitation of tax evasion: The Purchaser shall (and shall ensure that its supply chain shall (a) comply with applicable local, state, national or international law, including, without limitation, any and all applicable export laws, or otherwise engage in, promote, encourage, and/or undertake any unlawful or illegal activity including, without limitation, tax evasion, money laundering, terrorism, including, raising funds for the known terrorist organizations listed on <https://www.state.gov/foreign-terrorist-organizations/>) which would violate, or assist in violation of, any law, statute, ordinance, or regulation, sanctions program administered in any relevant country, including but not limited to the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC"), United States Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act 2010, and Criminal Finances Act 2017, or which would involve proceeds of any unlawful activity; (b) have (and maintain in place) throughout the term of the Contract, a reasonable prevention procedure to ensure: (i) the prevention of the facilitation of tax evasion by another person (including without limitation employees of the Provider); and (ii) compliance with this Clause 24.5; (c) promptly report to Terelion any request or demand from a third party made in connection with the

- Contract to facilitate the evasion ; and (d) within twelve (12) months of Order Effective Date, and annually thereafter, certify to Terelion in writing signed by an officer of the Purchaser, its compliance with this Clause 24.5 by the Purchaser and all persons associated with it. For the purposes of this Clause 24.5, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017.
- 24.6. **Assignment and novation:** The parties agree that: (a) Terelion may assign, novate, or otherwise deal with the Contract pursuant to these ToS without the consent of the Purchaser, to the extent permissible by Law; and (b) the Purchaser agrees to provide all assistance reasonably required by Terelion to give effect to its rights under this Clause.
- 24.7. **Subrogation rights:** Except where prohibited by Law, the Purchaser shall require its insurer (if any) to waive all rights of subrogation against Terelion or Terelion's insurers.
- 24.8. **No waiver:** No delay, neglect, or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall be, or shall be deemed to be, a waiver or in any way prejudice any right of that party under the Contract.
- 24.9. **Notices:** Any notice or demand under the Contract shall be: (a) given in writing; and (b) delivered by registered mail, courier, or by hand to the address set out in the Order or, with the exception of the service of legal proceedings, sent by email to the address specified in the Order. A notice given in accordance with this Clause 24.9 shall be deemed to have been received: (a) if delivered by hand or courier on a business day (for the recipient) before 5:00 p.m. recipient's time, on the date of delivery; (b) if delivered by hand or courier on a business day (for the recipient) on or after 5:00 p.m. recipient's time, the business day (for the recipient) following the date of delivery; (c) if delivered by registered mail, seven (7) Days after the date of posting; or (d) email, at 9.00 a.m. (recipient's time) on the business day (for the recipient) immediately following transmission.
- 24.10. **Third party rights:** Except as explicitly provided the Contract, nothing contained in these Terms is intended or shall be construed to confer upon any person (other than the parties hereto) any rights, benefits or remedies of any kind or character, or to create any obligations or liabilities of a party to any such person.
- 24.11. **No partnership or agency:** The parties agree that nothing in the Contract is intended to create: (a) a partnership; (b) the relationship of principal and agent; or (c) the relationship of employer and employee, between the parties.
- 24.12. **Survival:** Those provisions of the Contract that, by their nature, are intended to survive the termination or expiry of the Contract, shall so survive.
- 24.13. **Dispute resolution:** The parties agree that: (a) any dispute arising out of, or in connection with, the Contract (including any question regarding its existence, validity, or termination) shall be referred to and finally resolved by arbitration under the American Arbitration Rules ("AAA") Commercial Arbitration Rules, which rules are deemed to be incorporated by reference into this Clause; (b) the arbitration shall be determined by, at Terelion's option: (i) a single; or (ii) a panel of, independent arbitrator(s) who, in the absence of agreement between the parties, shall be appointed by AAAL; (c) the seat, or legal place, of arbitration shall be Atlanta, Georgia; (d) the language to be used in the arbitral proceedings shall be English; (e) the decision of the arbitrator(s) shall be final and binding on the parties, and subject to the aforesaid, the parties hereby exclude any rights of application or appeal to any court to the extent that they may validly so agree and in particular in connection with any question of Law; (f) all documents and information disclosed in the course of the arbitration shall be kept strictly confidential by the recipient and shall not be used by the recipient for any purpose other than for the purposes of the arbitration or the enforcement of the arbitrator's decision and award; (g) except as required to enforce the arbitrator's decision and award, the parties shall not, and shall procure that their respective personnel, their respective Affiliates, and the personnel of their respective Affiliates shall not, make any announcement, or comment upon, or originate any publicity, or otherwise provide any information to any third party (other than its legal advisors, insurers, and auditors) concerning the arbitration including the fact that the parties are in dispute, the existence of the arbitration, or any decision or award of the arbitrator; and (h) nothing in the Contract shall prevent Terelion from applying for interim, interlocutory, or other provisional relief to protect its rights and interests (including temporary restraining orders and interlocutory injunctions to protect the Terelion IPR or Confidential Information) in any court of competent jurisdiction provided that such provisional relief shall not prevent or stay any arbitration.
- 24.14. **Governing law and jurisdiction:** The parties agree that: (a) the governing law of the Contract shall be the laws of the State of Delaware (without giving effect to its conflict of laws provisions); (b) the submission to the jurisdiction of the AAA Rules shall not limit the right of Terelion to take proceedings against the Purchaser in any court which may otherwise exercise jurisdiction over the Purchaser or any of its assets; (c) the United Nations Convention on Contracts for the International Sale of Goods does not apply to the Contract; and (d) for the purposes of Terelion's rights under Clause 24.13(h), the Courts of the State of Delaware shall have jurisdiction with respect to applications for interim, interlocutory, or other provisional relief (including applications for temporary restraining orders and interlocutory injunctions).
- ## 25. Definitions
- In these ToS words or phrases beginning with a capital letter shall have their respective meanings given below:
- 25.1. **AAA:** The American Arbitration Association.
- 25.2. **Affiliate:** any entity which: (a) is controlled by a party; (b) controls a party; or (c) is under common control with a party, where **control** means the direct or indirect ownership of more than fifty per cent (50%) of the shares or interests entitled to vote for the directors of such entity or equivalent power over the management of such entity, for so long as such entitlement or power exists
- 25.3. **Amount Payable:** the amount of any debit balance shown on an invoice.
- 25.4. **Confidential Information:** any information or data, in respect of a party or its Affiliates or Representatives or their respective operations, including but not limited to reports, brochures, technical documents, specifications, partnumbers, service manuals, drawings, information, interpretations, production methods, records, operations, processes, plans, product information, price lists, market opportunities and customers containing or otherwise reflecting any information that is or may be proprietary and includes, but is not limited to, trade secrets, concepts, know-how, designs, patent applications, inventions, Software, (cross) references, processes, business plans, and financial information, that a party discloses to the other party or its Affiliates or Representatives in writing, orally or otherwise.
- 25.5. **Connected Equipment:** equipment, including Goods, which have remote monitoring hardware or software installed, connected, and activated by Terelion.
- 25.6. **Contract:** means: (a) the Order Acceptance; (b) these ToS; (c) the separate terms of use applicable to the Digital Services provided or made available to the Purchaser by Terelion in advance of the provision of the Digital Services (if any); (d) the Quote; (e) the Order (subject to Clause 3.2) or contract to which these ToS have been attached or incorporated by reference; and (f) any other document which is attached to or incorporated by reference in the Order Acceptance, these ToS, the terms of use for the Digital Services (if any), or the Quote.
- 25.7. **Data Protection Legislation:** means any national laws, regulations and legislation in relation to data privacy, as amended or updated from time to time.
- 25.8. **Day(s):** all calendar days, including weekends and holidays.
- 25.9. **Delay Payment(s):** the liquidated damages (if any): (a) expressly specified in the Contract; and (b) payable, subject to the performance relief mechanisms set out in these ToS, where specified Goods are not delivered on or before the expiry of the Delivery Date, provided that, under no circumstances, shall the Delay Payment payable for a relevant Good exceed 5% (five percent) of the total fees payable for that Good (ex VAT).
- 25.10. **Delivery Date:** the date (or period) for delivery of the Goods or Services as specified and agreed in the Contract.
- 25.11. **Digital Services:** the Terelion digital services: (a) specified in the Contract; or (b) otherwise provided in connection with Connected Equipment (including the Equipment Monitoring Service).
- 25.12. **Distributor:** Terelion Representatives (including agents, distributors, dealers, or other intermediaries) who: (a) sell or resell

- Goods, Services, or Digital Services; or (b) provide Terelion with equipment or services.
- 25.13. **Due Date:** means, with respect to: (a) the sale of Goods comprising equipment, seven (7) Days from (and including) the issue date of the relevant invoice; (b) the sale of Goods comprising parts or consumables, chemical resins, or resin capsules, thirty (30) Days from (and including) the issue date of the relevant invoice; and (c) the supply of Services or Digital Services, thirty (30) Days from (and including) the issue date of the relevant invoice.
- 25.14. **Equipment Monitoring Service:** the services provided by Terelion in connection with receiving Input Data as may be further detailed in the Contract which may include, but is not limited to, availability to Connected Equipment data via a web managed (or similar) subscription service received following online acceptance of any relevant web portal terms and conditions.
- 25.15. **Export Laws:** the: (a) UK Export Control Act 2002; (b) retained EU law version of the Dual-Use Regulation (428/2009/EC); (c) retained EU law version of the Anti-Torture Regulation ((EU 2019/125); (d) retained EU law version of the Firearms Regulation (258/2012/EU); and (e) all other applicable import and export control laws of a Sanctions Authority.
- 25.16. **Facility:** a purchase or credit facility.
- 25.17. **Force Majeure:** any acts, events, omissions, or circumstances beyond Terelion's reasonable control including: (a) any shortage of electricity, water, or other utilities; (b) lack of production or capacity; (c) a failure in public or third-party controlled telecommunications networks (including the Internet); (d) strikes, lock outs, labour disputes, fires, floods, storms, epidemics or pandemics, acts of God or public enemy, malicious or accidental damage, delays in transport or delays by a carrier servicer, breakdowns in plant, machinery, non-performance or failure by any bank in relation to sending or receiving money under the Contract due to applicable Laws; (e) compliance with Law, governmental order, rule, regulation or direction; or (f) acts or omissions of the Purchaser or a third party that would, or is likely to, result in Terelion being in breach (or in the reasonable opinion of Terelion is likely to become in breach) of any Law (including extraterritorial laws), any financing arrangements, including any loan facilities or issued notes of Terelion AB (publ.) or any of its Affiliates, or the Contract. The parties agree that a breach of the Sanctions and Export Laws does not fall within the definition of "Force Majeure" except, with respect to Terelion, for Sanctions and/or embargoes that relate directly or indirectly to Terelion's supply chain.
- 25.18. **Goods:** the Terelion Equipment, Parts, consumables and/or other components or tangible products supplied to the Purchaser under, and in accordance with, the Contract.
- 25.19. **Input Data:** data that is generated, collected, recorded, or uploaded either by, from or in connection with, the Connected Equipment, including utilisation information regarding the Connected Equipment and the standard industry data SAE J1939 but excluding any data or information regarding Terelion's equipment control systems including how to achieve functional performance.
- 25.20. **Insolvency Event:** the Purchaser is or becomes subject to one or more of the following events: (a) it suspends or threatens to suspend payment of its debts or becomes unable to pay its debts when they are due; (b) its financial position deteriorates to such an extent that, in Terelion's opinion, the Purchaser's ability to fulfil its obligations under the Contract has been placed in jeopardy; (c) it 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 its creditors; (d) 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 Purchaser; (e) 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 Purchaser; (f) a person becomes entitled to appoint a receiver over the assets of the Purchaser or a receiver is appointed over the assets of the Purchaser; (g) the holder of a qualifying floating charge over the assets of the Purchaser over the assets of the Purchaser has become entitled to appoint or has appointed an administrative receiver; (h) a creditor or encumbrancer of the Purchaser attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Purchaser's assets and such attachment or process is not discharged within fourteen (14) Days; (i) it informs any person that it is, presumed to be, insolvent; (j) it ceases or threatens to cease to carry on business; or (k) any guarantee or security given to Terelion (including the Security Interest) in relation to the Purchaser is revoked or becomes unenforceable.
- 25.21. **Intellectual Property Rights or IPR:** (a) patents, any extensions of the exclusivity granted in connection with patents, petty patents, utility models, registered designs, plant variety rights, applications for any of the foregoing (including, but not limited to, continuations, continuations-in-part and divisional applications), the right to apply for and be granted any of the foregoing, rights in inventions; (b) copyrights, design rights, semiconductor topography rights, moral rights, publication rights, database rights; (c) trade marks and service marks, applications for any of the foregoing, the right to apply for any of the foregoing, rights in trade names, business names, brand names, getup, logos, domain names and URLs; (d) rights in know-how, trade secrets and Confidential Information, data exclusivity rights; and (e) all other forms of intellectual property right having equivalent or similar effect to any of the foregoing which may exist anywhere in the world.
- 25.22. **Law(s):** (a) statutes, statutory instruments, regulations, by-laws, rules, ordinances, guidance, or subordinate legislation; (b) the common law and the law of equity; (c) a binding court order, judgment, or decree; (d) any industry code, guidance, policy or standard which, in each case, is enforceable by law or a regulator; and (e) any direction, policy, rule or order that is legally binding and that is made or given by a regulator..
- 25.23. **Minimum Technical Requirements:** has the meaning given in Clause 17.6.
- 25.24. **Order:** the purchase order or request issued by the Purchaser to Terelion for the Goods, Services, or Digital Services.
- 25.25. **Order Acceptance:** Terelion's acceptance of the Order and consequent agreement to the Contract by either: (a) delivering the Goods, Services, or Digital Services; or (b) issuing the Purchaser with a document named 'Order Acceptance' (or similar).
- 25.26. **Order Effective Date:** the date on which the Order Acceptance occurs.
- 25.27. **Output Data:** Input Data that has been processed by Terelion in order to provide deliverables to the Purchaser as part of the Equipment Monitoring Service which always excludes any data or information regarding Terelion's equipment control systems including how to achieve functional performance.
- 25.28. **party:** Terelion or the Purchaser (as the case may be).
- 25.29. **parties:** Terelion and the Purchaser.
- 25.30. **Personal Data:** has the meaning given in the GDPR.
- 25.31. **POD:** proof of delivery (as issued by Terelion to the Purchaser).
- 25.32. **Project IPR:** the Intellectual Property Rights in any and all outputs, work products, or deliverables arising from, under, or in connection with the sale of the Goods or the provision or receipt of the Services or Digital Services.
- 25.33. **Purchaser:** the person or entity who Orders the Goods, Services, or Digital Services from Terelion.
- 25.34. **Purchaser Obligations:** has the meaning given in Clause 12.2.
- 25.35. **Purpose:** Terelion's business purposes including: development, optimisation, improvement, marketing, analysing market trends, evaluation of adoption rates, scheduling, and support of Terelion's other current and future goods and services offerings, parts deliveries, software and hardware, product support, product development and other business improvements or offerings, including aggregating Terelion Data with other data for the purpose of providing performance comparisons or benchmarking to Terelion's other customers.
- 25.36. **Quote:** the quote or proposal document issued by Terelion to the Purchaser for the Goods, Services, or Digital Services.
- 25.37. **Related Entity:** in respect of any entity, any of its representatives, contractors, subcontractors, intermediaries, joint venture and consortium partners, officers and directors and that entity's subsidiaries, parent companies (whether direct or indirect) and subsidiaries of a parent company, provided that such entity/person: (a) is receiving or performing services hereunder, or (b) is in any other way (directly or indirectly) associated with the Contract or linked to the Purchaser.
- 25.38. **Representatives:** any director, employee, officer, adviser, auditor, agent, consultant, distributor, or subcontractor of a party or its Affiliate.

- 25.39. **Return Note:** a written note from Terelion instructing the Purchaser to return the Goods to a warehouse designated by Terelion.
- 25.40. **Sanctioned Person:** any individual, entity, vessel, or aircraft: (a) listed on a Sanctions List; (b) that is resident or located in, operating from, or incorporated under the laws of a Sanctioned Territory; (c) that is, or is part of, the government of a Sanctioned Territory or any political subdivision, body, agency or instrumentality thereof, or fully or partially owned (directly or indirectly): or (d) fully or partially controlled by, or acting on behalf or at the direction of, or for the benefit of, any individual or entity on a Sanctions List (including but not limited to where the level of direct or indirect ownership amounts to 45% or more on aggregate).
- 25.41. **Sanctioned Territory:** Afghanistan, Belarus, Crimea, Cuba, Iran, North Korea, Syria, Russia, so-called Donetsk and Luhansk Peoples' Republics and other Ukrainian territories claimed to be Annexed by Russia or any country or region which is, or whose government is, or becomes, a target of comprehensive, country-wide or territory-wide Sanctions.
- 25.42. **Sanctions:** any laws enacted, administered, implemented, imposed, or enforced from time to time by any Sanctions Authority in relation to economic, financial, or trade sanctions or export controls, or similar restrictive measures.
- 25.43. **Sanctions Authority:** (a) the United Nations Security Council; (b) the United States of America; (c) the United Kingdom; (d) Canada; (e) Australia; (f) the European Union (and/or its individual member states); and (g) the respective governmental institutions and agencies of any of the foregoing, or any other jurisdiction that may be relevant to the performance of the Contract, or rights and obligations pursuant to the Contract (including jurisdictions relevant to any Related Entities or Affiliates, and/or to the end use of the Goods), including the Office of Foreign Assets Control of the US Department of Treasury (**OFAC**), the US Department of State, the Bureau of Industry and Security of the US Department of Commerce, the Office of Financial Sanctions Implementation, part of His Majesty's Treasury (**OFSI**), the European Commission and the relevant national competent authorities (**NCA**s) within an EU member state.
- 25.44. **Sanctions List:** any list of Sanctions targets maintained by a Sanctions Authority, including without limitation: (a) the Consolidated United Nations Security Council Sanctions List; (b) any list maintained by the OFAC or included in the International Trade Administration's "*Consolidated Screening List*", including the Specially Designated Nationals (**SDN**) and Blocked Persons List; (c) the Consolidated List of Financial Sanctions Targets or List of persons subject to restrictive measures in view of Russia's actions destabilising the situation in Ukraine, maintained by the UK Treasury; (d) the Consolidated List of Persons, Groups and Entities subject to EU Financial Sanctions; or (e) any similar list maintained by, or public announcement of sanctions made by, any other Sanctions Authority.
- 25.45. **Terelion:** the Terelion Group entity specified in, or relevant to, the Order Acceptance.
- 25.46. **Terelion Code of Conduct:** Terelion's code of conduct, available on request.
- 25.47. **Terelion Data:** aggregated and/or anonymous data which is created, generated, derived or produced by Terelion based on: (a) Input Data and/or Output Data; or (b) otherwise created through the use of the Digital Service (including the Equipment Monitoring Service), such data never to contain any Personal Data.
- 25.48. **Terelion Group:** Terelion and the Affiliates of Terelion AB (publ.).
- 25.49. **Terelion Indemnity:** has the meaning given in Clause 14.1.
- 25.50. **Terelion IPR:** (a) all Intellectual Property Rights comprised in, relating to, or created as a result of, the sale of the Goods or the provision of the Services or Digital Services (including in the Terelion Data); (b) all IPR in adaptations, add-ons, modifications, updates, and enhancements (including those made following a request or suggestion made by or on behalf of the Purchaser) made to the Intellectual Property Rights described in (a); and (c) any Intellectual Property Rights created in connection with the performance of the Contract (including all materials provided or made available by Terelion in connection with the Contract and all Project IPR).
- 25.51. **Terelion Warranty:** (a) the Terelion standard warranty; and (b) if purchased in the Order, the Terelion extended warranty, in each case, as in force as at the Order Effective Date.
- 25.52. **Security Interest:** a mortgage, transfer, pledge, notarial bond, lien or security cession, or any security or preferential interest or arrangement of any kind which allows a creditor to have its claims satisfied prior to other creditors from the proceeds of an asset (including retention of title, deposit of money by way of security or a conditionally repayable deposit or flawed asset arrangement) and includes any interest which can be registered under any law of any other jurisdiction that has an analogous or similar effect.
- 25.53. **Services:** the services specified in, or provided in connection with, the Order which Terelion agrees to provide in the Order Acceptance.
- 25.54. **Software:** has the meaning given in Clause 17.1.
- 25.55. **Specified Risks:** the availability or cost of raw materials, commodities, transportation, warehousing, energy, or other critical components or elements relevant to Terelion's supply chain and the Goods, Services, or Digital Services (including where such availability or cost is affected by market volatility, large-scale political or economic upheavals, geopolitical conflicts, climate change, epidemics, or pandemics (including current and future variants of Covid-19 and other Corona strain viruses)).
- 25.56. **Terms and Conditions of Supply or ToS:** has the meaning given in Clause 1.1 (Introduction, definitions, and interpretation).
- 25.57. **Unsafe:** unacceptable actual or potential hazards and incidents relating to safety, health, or the environment (including in breach of applicable Laws).
- 25.58. **VAT:** any value-added tax, goods and services tax, consumption tax, sales tax, or similar tax imposed by legislation.
- 26. Interpretation**
- 26.1. The Contract (and the documents comprising the Contract) shall be construed and interpreted in accordance with the following rules: (a) headings are for ease of reference only and do not affect interpretation; (b) the singular includes the plural and vice versa; (c) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time; (d) a reference to a "person" includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity; (e) a reference to a legislative requirement or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; (f) the meaning of general words is not limited by specific examples introduced by the words "including", "for example" or similar expressions; (g) the rule known as *eiusdem generis* shall not apply and, accordingly, words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that such words are preceded by words indicating a particular class of acts, matters, or things; (h) references to "material breach" mean that such breach (which includes anticipatory breach, as that term is defined at common law): (i) is more than trivial, but need not be repudiatory; and (ii) if not remedied may, or is likely to have, a serious impact on the benefit that the innocent party would otherwise derive from the performance of the Contract in accordance with its terms, and the parties agree that any breach of any one or more of Clauses 13.5, 19, 22, 24.3, 24.4, or 24.5 shall be construed as a material breach; and (i) any obligation in the Contract on a party not to do something includes an obligation on that party not to agree, allow, permit or acquiesce to that thing being done.
- 26.2. The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that agreement shall not apply.