

SUPPLY CONDITIONS

The Purchaser's attention is drawn to Supply Conditions: 3.6, 3.9, 3.10, 3.11, 5.4, 5.5, 5.8, 7.6, 8.4, 12 and 13.3.

Please read these Supply Conditions carefully before placing an Order. By placing an Order you agree to be bound by these Supply Conditions. If you do not accept these Supply Conditions then you will not be able to make an Order.

You should keep a copy of these Supply Conditions for future reference. Cairn Research reserves the right to modify these Supply Conditions from time to time (see clause 15.7).

1. Interpretation

1.1 **Definitions.** In these Supply Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Business Hours: the period from 9.00am to 5.30pm on a Business Day.

Cairn Research: Cairn Research Limited, a private company limited by shares, incorporated and registered in England and Wales with company number 01881330, whose registered office is at Cairn Research, Graveney Road, Faversham, Kent, ME13 8UP.

Completion Date: the estimated date of completion of the Services, as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser.

Data Controller: has the meaning set out in the Data Protection Legislation.

Data Processor: has the meaning set out in the Data Protection Legislation.

Data Protection Legislation: the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) as defined in the Data Protection Act 2018.

Data Subject: has the meaning set out in the Data Protection Legislation.

Delivery Date: the estimated date of delivery of the Products, as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser.

Delivery Location: the address for delivery of the Products and/or the provision of Services, as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser.

Distribution Agreement: means any distribution agreement between Cairn Research and the Purchaser under which the Purchaser has been

appointed by Cairn Research as a non-exclusive distributor of the Products.

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| Document: | includes without limitation any written document, maintenance manual, operations manual, training video, instructions, or information in any form supplied by Cairn Research to the Purchaser in respect of or in connection with the Products and/or Services. |
| Force Majeure Event: | has the meaning given in clause 14. |
| Incoterm: | The relevant incoterm shall have the same meaning as the Incoterms 2020 rules, published in January 2020 by the International Chamber of Commerce, as amended from time to time. |
| Intellectual Property Rights: | patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, right to use and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world in or associated with the Products and/or Services. |
| Mandatory Policies: | Cairn Research's mandatory policies and procedures for contracts set out on its Website or otherwise notified by Cairn Research to the Purchaser in writing from time to time, as amended from time to time. |
| Order: | the Purchaser's order for the Products and/or Services, as set out in the Supply Contract Details or otherwise in writing between Cairn Research and the Purchaser. |
| Payment Schedule: | the schedule of payments for the Products and/or Services, as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser. |
| Personal Data: | has the meaning set out in the Data Protection Legislation. |
| Products: | the products (or any part of them) to be supplied by Cairn Research to the Purchaser, as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser. |

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| Purchaser: | the person or firm who purchases the Products and/or Services from Cairn Research, as set out in the Supply Contract Details. |
| Purchaser's Carrier: | has the meaning given in clause 3.3. |
| Services: | the services to be provided by Cairn Research to the Purchaser as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser. |
| Services Start Date: | the estimated date on which the provision of Services will start, as set out in the Supply Contract Details or otherwise agreed in writing between Cairn Research and the Purchaser in writing. |
| Specification: | any specification for the Products and/or Services, including any related plans, designs and drawings, that is supplied to Cairn Research by the Purchaser and agreed in writing by Cairn Research, or produced by Cairn Research and agreed in writing by the Purchaser. |
| Supply Conditions: | the terms and conditions set out in this document (together with any documents referred to in it) as amended from time to time by Cairn Research. |
| Supply Contract: | the contract between Cairn Research and the Purchaser for the sale and purchase of the Products and/or Services in accordance with the Supply Contract Details, these Supply Conditions and the Mandatory Policies. |
| Supply Contract Details: | means the supply contract details sheet to which these Supply Conditions are annexed or the order confirmation issued by Cairn Research to the Purchaser which incorporates these Supply Conditions. |
| Testing Period: | has the meaning given in clause 4.1. |
| Warranty Period: | the warranty period of twelve months from the date of delivery of the Products, or such other warranty period agreed in writing by Cairn Research. |
| Website: | Cairn Research's website: https://cairn-research.co.uk . |

1.2 **Construction.** In these Supply Conditions, the following rules apply:

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.4 Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to **writing** or **written** includes email but not fax.

2. Basis of contract

2.1 These Supply Conditions apply to the Supply Contract to the exclusion of any other terms that the Purchaser seeks to impose or incorporate, or which are implied by trade custom, practice or course of dealing.

2.2 A quotation for any Products and/or Services provided by Cairn Research, together with these Supply Conditions, shall constitute the terms upon which the Products and/or Services are to be sold to the Purchaser but shall not constitute an offer from Cairn Research to the Purchaser. A quotation shall only be valid for a period of thirty days from its date of issue unless withdrawn by Cairn Research.

2.3 The Order constitutes an offer by the Purchaser to purchase the Products and/or Services in accordance with these Supply Conditions. The Purchaser shall ensure that the terms of the Order and any relevant Specification are complete and accurate, and shall specify any changes or inaccuracies.

2.4 The Order shall only be deemed to be accepted when Cairn Research issues a written acceptance of the Order together with the Supply Contract, at which point the Supply Contract shall come into existence. The Purchaser shall have no right to cancel an Order or reschedule delivery, other than as provided for in clause 3 below, unless otherwise agreed in writing by Cairn Research.

2.5 The Supply Contract (together with the Distribution Agreement (if applicable)) constitutes the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Cairn Research which is not set out in the Supply Contract. Any samples, drawings, descriptive matter including prices, or advertising issued by Cairn Research and any descriptions or illustrations contained in Cairn Research's catalogues or brochures or on Cairn Research's Website are issued or published for the sole purpose of giving an approximate idea of the Products and/or Services described in them. They shall not form part of the Supply Contract or any other contract between Cairn Research and the Purchaser for the sale of the Products and/or Services.

3. Delivery of products and completion of services

3.1 For delivery of Products outside of the UK, subject to receipt of clear instructions from the Purchaser, Cairn Research shall use reasonable endeavours to deliver the Products to the Delivery Location, being an agreed place in line with the Incoterm DAP (Delivery at Place) or such other Incoterm agreed between Cairn Research and the Purchaser in writing, and with such insurance as prescribed by the Incoterm on or by the Delivery Date.

3.2 For delivery of Products within the UK, subject to receipt of clear instructions from the Purchaser, Cairn Research shall use reasonable endeavours to deliver the Products to the Delivery Location on or by the Delivery Date. Unless otherwise agreed between Cairn Research and the Purchaser, delivery of the Products shall be completed upon the Products being made available for unloading at the Delivery Location.

- 3.3 Alternatively and if agreed by the parties, the Purchaser may organise collection of the Products from Cairn Research's premises on the Delivery Date and onward transportation of the Products. The Purchaser must inform Cairn Research of this intention on the Order. The Purchaser's nominated carrier (**Purchaser's Carrier**) shall be deemed to be the Purchaser's agent. Delivery shall be completed on the completion of the loading of the Products onto the Purchaser's Carrier's vehicle at Cairn Research's premises. The Purchaser shall be responsible for ensuring the Products are insured and Cairn Research shall have no liability in relation to any damage to the Products whilst in the Purchaser's Carrier's possession.
- 3.4 Cairn Research shall ensure that each delivery of the Products is accompanied by a delivery note which shows the date of the Order, relevant Purchaser and Cairn Research's reference numbers, the type and quantity of the Products (and the code number of the Products, where applicable), any maintenance manual and/or operations manual (where applicable), any training video (where applicable) and special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Products remaining to be delivered.
- 3.5 Cairn Research shall use reasonable endeavours to complete the provision of Services by the Completion Date.
- 3.6 The Purchaser shall, at its own cost, obtain such import and/or export licences and other licences, permissions and consents as Cairn Research may reasonably require from time to time in order to supply the Products and/or Services and comply with its obligations under the Supply Contract, and the Purchaser shall make those licences and consents available to Cairn Research prior to the Delivery Date. The Purchaser shall indemnify Cairn Research against any failure to comply with its obligations under this clause 3.6.
- 3.7 Cairn Research shall use reasonable endeavours to notify the Purchaser of any delay that, in Cairn Research's opinion, may affect the Delivery Date, Services Start Date and/or Completion Date, and Cairn Research reserves the right to unilaterally change such dates at any time up to five Business Days before the Delivery Date or Services Start Date (whichever is earlier) by giving written notice to the Purchaser.
- 3.8 The Delivery Date, Services Start Date and Completion Date are approximate only, and time of delivery of the Products, time of the commencement of the Services and time of completion of the Services shall not be made of the essence by notice or otherwise. Estimated lead times quoted shall date from receipt and acceptance by Cairn Research of an Order.
- 3.9 If Cairn Research fails to deliver the Products or make the Products available for collection by the Delivery Date or start the Services by the Services Start Date, or complete the provision of Services by the Completion Date, subject to the other provisions of these Supply Conditions (including clause 3.10) its liability shall be limited to the costs and expenses incurred by the Purchaser in obtaining replacement products and/or services of similar description and quality in the cheapest market available, less the price of the Products and/or Services (as applicable).
- 3.10 Cairn Research shall have no liability for any failure to deliver the Products or make the Products available for collection by the Delivery Date, or start the Services by the Services Start Date, or complete the Services by the Completion Date, to the extent that such failure is caused by a Force Majeure Event or the Purchaser's failure to provide Cairn Research with all relevant licences, permissions and consents, adequate delivery instructions or any other information or instructions that are relevant to the supply of the Products and/or Services.
- 3.11 If the Purchaser fails to take delivery of the Products on the Delivery Date then, except where such failure or delay is caused by a Force Majeure Event or Cairn Research's failure to comply with its obligations under the Supply Contract:
- 3.11.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day following the Delivery Date; and

- 3.11.2 Cairn Research shall store the Products until delivery takes place, and charge the Purchaser for all related costs and expenses (including labour, materials, overheads, storage and insurance) in respect of which the Purchaser shall indemnify Cairn Research.
- 3.12 If ten Business Days after the Delivery Date the Purchaser has not taken delivery, Cairn Research may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage, insurance and selling costs, account to the Purchaser for any excess over the price of the Products or charge the Purchaser for any shortfall below the price of the Products.
- 3.13 The Purchaser shall not be entitled to reject the Products if Cairn Research delivers up to and including 5% more or less than the quantity of Products ordered, but a pro rata adjustment shall be made to the price of the Products on receipt of notice from the Purchaser that the wrong quantity of Products was delivered. The Purchaser must notify Cairn Research of any shortage/surplus in writing within seven Business Days of the date of delivery.
- 3.14 Cairn Research may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Purchaser to cancel any other instalment.

4. Inspection and Testing

- 4.1 Within the period of five Business Days of completion of the later of:
- 4.1.1 delivery of bespoke Products (excluding all other Products); or
- 4.1.2 (if Cairn Research is providing Services to the Purchaser) the provision of Services,
- (**Testing Period**) the Purchaser shall have the opportunity to inspect and test the bespoke Products and any installation or other works carried out by Cairn Research to demonstrate the Products meet the Specification and/or Services have been supplied in accordance with the Specification.
- 4.2 The Purchaser shall carry out any testing in accordance with the acceptance test criteria set out in the Specification, or otherwise agreed in writing between Cairn Research and the Purchaser from time to time, within the Testing Period.
- 4.3 If the Purchaser fails to complete the acceptance testing within the Testing Period then, unless a defect or deficiency is identified by the Purchaser during the Testing Period or an extension of time is agreed by Cairn Research, the bespoke Products and/or Services shall be deemed to be compliant with the Specification.
- 4.4 In the event a defect or deficiency is identified during the Testing Period, Cairn Research shall, following notification of such defect or deficiency by the Purchaser together with the provision of such information as Cairn Research reasonably requires regarding the defect or deficiency, use its reasonable endeavours to remedy the defect or deficiency within a reasonable time and the relevant test(s) shall be promptly repeated by the Purchaser.
- 4.5 In the event Cairn Research is unable to remedy a defect or deficiency within a reasonable time of being notified by the Purchaser of such defect or deficiency, Cairn Research shall, at its option:
- 4.5.1 replace the defective Products;
- 4.5.2 re-perform the Services; or
- 4.5.3 refund the price of the defective Products or Services in full.

4.6 Cairn Research shall provide the Purchaser with reasonable assistance in relation to the testing of the bespoke Products and/or Services.

4.7 If required by Cairn Research, the Purchaser shall promptly sign a document to confirm:

4.7.1 completion of the testing of bespoke Products and/or Services and their compliance with the Specification; or

4.7.2 (in the event no testing is being carried out by the Purchaser) completion of the Services.

5. Quality of products

5.1 Cairn Research warrants that on manufacture, and for the Warranty Period, the Products shall:

5.1.1 conform in all material respects with their description and any applicable Specification; and

5.1.2 be free from material defects in design, material and workmanship.

5.2 Subject to clause 5.3, if:

5.2.1 the Purchaser gives notice in writing to Cairn Research (and carrier if there has been damage in transit) during the relevant Warranty Period within five Business Days of delivery that some or all of the Products do not comply with the warranty set out in clause 5.1;

5.2.2 Cairn Research is given a reasonable opportunity of examining such Products; and

5.2.3 the Purchaser (if asked to do so by Cairn Research) returns such Products to Cairn Research's place of business at Cairn Research's cost, quoting the return authorisation number/reference obtained from Cairn Research prior to the return of the Products,

Cairn Research shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full.

5.3 Cairn Research shall not be liable for Products' failure to comply with the warranty set out in clause 5.1 if:

5.3.1 the Purchaser fails to notify Cairn Research in accordance with clause 5.2.1; or

5.3.2 the Purchaser makes any further use of such Products after giving notice in accordance with clause 5.2.1; or

5.3.3 the defect arises because the Purchaser failed to follow Cairn Research's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products including, without limitation, any instructions contained in any maintenance manual, operations manual, or training video provided by Cairn Research to the Purchaser, or (if there are none) good trade practice; or

5.3.4 the defect arises as a result of Cairn Research following any Specification supplied by the Purchaser; or

5.3.5 the Purchaser alters or repairs such Products without the written consent of Cairn Research; or

5.3.6 the defect arises as a result of damage incurred during transportation which is effected by the Purchaser's Carrier; or

- 5.3.7 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 5.3.8 the Products differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory and regulatory standards.
- 5.4 Except as provided in this clause 5, Cairn Research shall have no liability to the Purchaser in respect of the Products' failure to comply with the warranty set out in clause 5.1.
- 5.5 Except as set out in these Supply Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Supply Contract.
- 5.6 These Supply Conditions shall apply to any repaired or replacement Products supplied by Cairn Research.
- 5.7 Cairn Research reserves the right to charge the Purchaser for the transportation, testing and/or refurbishing of any Products returned and subsequently deemed not to be defective or found to be out of warranty.
- 5.8 Cairn Research gives no condition or warranty that Products are suitable for a particular purpose. The Purchaser must satisfy itself in this respect and be solely responsible that the Products are suitable for its requirements. Any suggestions or recommendations given by Cairn Research do not amount to a representation, condition or warranty.
- 6. Title and risk**
- 6.1 The risk in the Products shall pass to the Purchaser on completion of delivery.
- 6.2 Title to the Products shall not pass to the Purchaser until Cairn Research has received payment in full (in cash or cleared funds) for the Products and all other sums which are or which become due to Cairn Research under the Supply Contract.
- 6.3 Until title to the Products has passed to the Purchaser, the Purchaser shall:
 - 6.3.1 hold the Products on a fiduciary basis as Cairn Research's bailee;
 - 6.3.2 store the Products separately from all other goods held by the Purchaser so that they remain readily identifiable as Cairn Research's property;
 - 6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
 - 6.3.4 maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date on which delivery is completed;
 - 6.3.5 notify Cairn Research immediately if it becomes subject to any of the events listed in clause 11.2; and
 - 6.3.6 give Cairn Research such information relating to the Products as Cairn Research may require from time to time.
- 6.4 If before title to the Products passes to the Purchaser the Purchaser becomes subject to any of the events listed in clause 11.2, or Cairn Research reasonably believes that any such event is about to happen and notifies the Purchaser accordingly, then, provided that the Products have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Cairn Research may have, Cairn Research may at any time require the Purchaser to deliver up the Products and, if the Purchaser fails to do so promptly, the Purchaser

irrevocably licences Cairn Research, its officers, employees and agents, to enter any premises of the Purchaser or (to the extent permitted by law) the premises of any third party where the Products are stored in order to inspect and mark and/or recover them.

- 6.5 This clause 6 shall survive termination or expiry of the Supply Contract only to the extent it relates to Cairn Research's rights. The Purchaser shall have no rights under this clause following termination or expiry of the Supply Contract.

7. Supply of services

- 7.1 Cairn Research shall supply Services to the Purchaser in accordance with any Specification in all material respects.

- 7.2 Cairn Research reserves the right to amend any Specification if necessary to comply with applicable law or regulatory requirements, and if the amendment will materially affect the nature or quality of the Services, Cairn Research shall notify the Purchaser as soon as reasonably practicable.

- 7.3 Cairn Research warrants to the Purchaser that the Services will be provided using reasonable care and skill.

- 7.4 If Cairn Research is providing personnel to the Purchaser to carry out such Services, Cairn Research reserves the right to substitute such personnel (provided the substitution has, in Cairn Research's opinion, the necessary qualifications or experience to carry out the Services). Nothing in these Supply Conditions shall create a contract between the Purchaser and personnel supplied by Cairn Research.

- 7.5 The Purchaser shall:

7.5.1 co-operate with Cairn Research in all matters relating to Services;

7.5.2 at its own cost, promptly provide Cairn Research with such access, facilities, information and materials as Cairn Research may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

7.5.3 at its own cost, obtain and maintain any necessary licences, permissions and consents which may be required for the Services and make these available to Cairn Research before the date on which the Services are due to start;

7.5.4 at its own cost, comply with all applicable laws, including health and safety laws; and

7.5.5 keep all materials, equipment and other property of Cairn Research or its personnel at the Purchaser's premises, or other location where the Services are to be provided by Cairn Research, in safe custody at its own risk, maintain any such items in good condition, and not dispose of or use any such items other than in accordance with Cairn Research's written instructions or authorisation.

- 7.6 The Purchaser shall indemnify Cairn Research against any failure to comply with its obligations under clause 7.5.

8. Price and payment

- 8.1 The price of the Products and/or Services shall be the price set out in the Supply Contract Details. If no price is given, the price shall be the price provided as part of any quotation provided by Cairn Research to the Purchaser, or otherwise set out in Cairn Research's published price list in force as at the date of delivery if no quotation has been provided. Volume price quotations are only applicable to the quantities offered.

- 8.2 Cairn Research may, by giving notice to the Purchaser at any time up to twenty Business Days before the Delivery Date or the Services Start Date, increase the price of the Products and/or Services to reflect any increase in the cost of the Products and/or Services that is due to:
- 8.2.1 any factor beyond Cairn Research's control (including without limitation foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 8.2.2 any request by the Purchaser to change the Delivery Date(s), Delivery Location, extent of the Services, Services Start Date, Completion Date, quantities or types of Products ordered, or the Specification; or
 - 8.2.3 any delay caused by any information or instructions of the Purchaser or failure of the Purchaser to give Cairn Research adequate or accurate information or instructions.
- 8.3 The price of the Products and/or Services is exclusive of amounts in respect of value added tax (VAT) or any other tax or duty thereon. The Purchaser shall, on receipt of a valid VAT invoice from Cairn Research, pay to Cairn Research such additional amounts in respect of VAT, tax or duty as are chargeable on the supply of the Products and/or Services at the prevailing rate.
- 8.4 All costs and charges in relation to or arising from any credit facility, bank charges (including any charges incurred by Cairn Research and/or the Purchaser in agreeing any letters of credit), currency conversion, packaging, loading, unloading, transport of the Products (including courier fees, import/export licences and customs duties) and insurance, shall be at the cost of the Purchaser and paid in addition to the price for the Products and/or Services. Cairn Research reserves the right to charge the Purchaser on a full indemnity basis for any such costs and charges or in attempting to recover or recovery of any monies due under the Supply Contract.
- 8.5 Cairn Research reserves the right to require the Purchaser to provide it with an irrevocable letter of credit in terms satisfactory to Cairn Research and confirmed by a bank in the United Kingdom acceptable to Cairn Research prior to the Delivery Date or the Services Start Date, whichever is earlier. Cairn Research shall be entitled to immediate cash payment on presentation of the necessary documents to a bank in the United Kingdom.
- 8.6 Time of payment is of the essence and no payment shall be deemed to have been received until Cairn Research has received cleared funds.
- 8.7 Products and/or Services shall be paid in pounds sterling in cleared funds on or before the due dates set out in the Payment Schedule or, if otherwise agreed with Cairn Research in writing, the Purchaser shall pay the invoice (in respect of the Products and/or Services or instalments thereof if applicable) in full and in cleared funds within thirty days of the date of the invoice. If no due dates for payments are set out in the Payment Schedule and, in the absence of an alternative written agreement between Cairn Research and the Purchaser, Products shall be paid for in full before the Delivery Date and Services shall be paid for in full before the Services Start Date.
- 8.8 Cairn Research shall invoice the Purchaser separately from time to time for any additional costs and charges arising under the Supply Contract pursuant to clause 8.4 or otherwise. The Purchaser shall pay the invoice in full and in cleared funds within thirty days of the date of the invoice.
- 8.9 All payments in accordance with this clause 8 shall be made by direct bank transfer into such bank account nominated by Cairn Research in writing.
- 8.10 The Purchaser shall pay all amounts due under the Supply Contract in full without any deduction or withholding except as required by law and the Purchaser shall not be entitled to assert any credit, set-off or counterclaim against Cairn Research in order to justify withholding payment of any such amount in whole or in part. Cairn Research may at any time, without

limiting any other rights or remedies it may have, set off any amount owing to it by the Purchaser against any amount payable by Cairn Research to the Purchaser.

- 8.11 If the Purchaser fails to make any payment due to Cairn Research under the Supply Contract by the due date for payment (**due date**), then the Purchaser shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base lending rate from time to time, or 4% per annum if at any time the base lending rate is below 0%. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Purchaser shall pay the interest together with the overdue amount. Cairn Research reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.12 Cairn Research may suspend delivery of the Products and/or the provision of Services, or terminate the Supply Contract in respect of any undelivered Products and/or Services in the event that the Purchaser fails to pay any sum due to Cairn Research by the due date.
- 8.13 Cairn Research reserves the right to carry out credit checks and other company checks on the Purchaser, and by placing an Order the Purchaser irrevocably consents to such checks being carried out by Cairn Research.

9. Intellectual property rights

- 9.1 All and any Intellectual Property Rights in the Products and/or Services and any Document shall belong to and vest solely in Cairn Research or its licensors.
- 9.2 Cairn Research grants to the Purchaser free of charge a non-exclusive, worldwide licence in respect of such rights to the extent necessary to enable the Purchaser to make reasonable use of the Products, Services and/or Documents.
- 9.3 The Purchaser shall not remove, suppress or modify any trade mark, copyright or other proprietary marking belonging to Cairn Research from the Products, Services and/or any Document, and shall not reverse compile engineer, tamper with, or in any way alter or modify the Products, Services and/or the Documents without the prior written consent of Cairn Research.
- 9.4 The Purchaser shall promptly and fully notify Cairn Research of:
- 9.4.1 any actual, threatened or suspected infringement of any Intellectual Property Rights which comes to the Purchaser's notice; and
- 9.4.2 any claim by any third party that comes to the Purchaser's notice that the sale or advertisement of the Products and/or Services and/or any Document infringes the rights of any person.
- 9.5 The Purchaser agrees (at Cairn Research's request and reasonable expense) to do all such things as may be reasonably required to assist Cairn Research in taking or resisting any proceedings in relation to any infringement or claim referred to in clause 9.4.

10. Confidentiality

- 10.1 Any information exchanged in the course of the supply of Products and/or Services under the Supply Contract shall be treated as strictly confidential by Cairn Research and the Purchaser, and each party agrees not to use such information for its own purposes (other than implementation of the Supply Contract), nor without the prior written consent of the other party, disclose to any third party (except professional advisers or as may be required by any law or any legal or regulatory authority) any such information, unless such information is public knowledge already at the time of disclosure, or subsequently becomes public knowledge other than by breach of the Supply Contract, or subsequently becomes lawfully into the possession

of either Cairn Research or the Purchaser from a third party. Cairn Research and the Purchaser shall each use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

10.2 This clause 10 shall survive termination or expiry of the Supply Contract.

11. Termination

11.1 If any of the events listed in clause 11.2 occur, or Cairn Research reasonably believes that the Purchaser is about to become subject to any of them and notifies the Purchaser accordingly, then, without limiting any other right or remedy available to Cairn Research, Cairn Research may cancel or suspend all further deliveries of Products and/or the provision of Services under the Supply Contract or under any other contract between the Purchaser and Cairn Research without incurring any liability to the Purchaser.

11.2 For the purposes of clause 11.1, the relevant events are:

11.2.1 the Purchaser commits a material breach of any terms of the Supply Contract which is not remedied within ten Business Days after receipt of notice in writing requiring it to do so; or

11.2.2 the Purchaser suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or

11.2.3 the Purchaser 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; or

11.2.4 (being an individual) the Purchaser is the subject of a bankruptcy petition or order; or

11.2.5 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 its assets and such attachment or process is not discharged within fourteen days; or

11.2.6 (being a company) 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; or

11.2.7 (being a company) a floating charge holder over the assets of the Purchaser has become entitled to appoint or has appointed an administrative receiver; or

11.2.8 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; or

11.2.9 any event occurs, or proceedings are taken, with respect to the Purchaser in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.2.1 to clause 11.2.8 (inclusive); or

11.2.10 the Purchaser suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or

- 11.2.11 (being an individual) the Purchaser dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 11.3 Cairn Research may terminate the Supply Contract at any time upon giving to the Purchaser not less than one month's notice.
- 11.4 Upon termination, all outstanding sums payable by the Purchaser to Cairn Research under the Supply Contract or any other contract between the Purchaser and Cairn Research shall become immediately due and the Purchaser shall return any materials, equipment and property owned by Cairn Research or its personnel to Cairn Research immediately within seven days of termination.
- 12. Limitation of liability**
- 12.1 Nothing in these Supply Conditions shall limit or exclude Cairn Research's liability for:
- 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); or
- 12.1.2 fraud or fraudulent misrepresentation; or
- 12.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- 12.1.4 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982; or
- 12.1.5 any matter in respect of which it would be unlawful for Cairn Research to exclude or restrict liability.
- 12.2 Subject to clause 12.1, Cairn Research shall not be liable to the Purchaser, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
- 12.2.1 any loss of profit; or
- 12.2.2 loss of sales or business; or
- 12.2.3 loss of agreements or contracts; or
- 12.2.4 loss of use or corruption of software, data or information; or
- 12.2.5 loss of or damage to equipment or property; or
- 12.2.6 loss of or damage to goodwill; or
- 12.2.7 any indirect or consequential loss.
- 12.3 Subject to clause 12.2, Cairn Research's total liability to the Purchaser in respect of all other losses arising under or in connection with the Supply Contract, whether in contract, tort (including negligence), breach of statutory duty or otherwise shall not exceed the total price paid in respect of the Products and/or Services (to the exclusion of any other payments that may be due from the Purchaser to Cairn Research under the Supply Contract or (if applicable) the Distribution Agreement).
- 12.4 The terms implied by sections 13 to 15 of the Sales of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Supply Contract.

12.5 This clause 12 shall survive termination or expiry of the Supply Contract.

13. Data protection and data processing

- 13.1 The Purchaser and Cairn Research each acknowledge that for the purposes of the Data Protection Legislation, the Purchaser is the Data Controller and Cairn Research is the Data Processor in respect of any Personal Data shared by the Purchaser under the terms of or in connection with the Supply Contract.
- 13.2 Each party warrants to the other that it will process the Personal Data in compliance with the Data Protection Legislation and take reasonable steps to maintain the security of, and prevent the accidental loss or destruction of, such Personal Data.
- 13.3 The Purchaser warrants to Cairn Research that it has obtained consent from each Data Subject whose Personal Data has been provided by the Purchaser to Cairn Research for Cairn Research to process, and shall indemnify against any failure to obtain such consent from a Data Subject.
- 13.4 Cairn Research may authorise a third party to process the Personal Data.
- 13.5 Cairn Research will use the Personal Data given by the Purchaser to:
- 13.5.1 supply the Products and/or Services;
 - 13.5.2 process payments;
 - 13.5.3 give information to the Purchaser about the Products and/or Services; and
 - 13.5.4 give information about other products and/or services that Cairn Research provides (but the Purchaser may stop receiving this at any time by contacting Cairn Research).
- 13.6 Cairn Research will hold and process Personal Data in accordance with any privacy policy or similar policy set out on its Website, as amended from time to time.

14. Force majeure

Neither party shall be liable for any failure or delay in performing its obligations under the Supply Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics, pandemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

15. General

15.1 Assignment and subcontracting.

- 15.1.1 Cairn Research may at any time assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Supply Contract.
- 15.1.2 The Purchaser may not assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Supply Contract without the prior written consent of Cairn Research.

15.2 Notices.

15.2.1 Any notice given to a party under or in connection with this Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the following addresses (or an address substituted in writing by the relevant party):

Cairn Research: management@cairn-research.co.uk.

Distributor: the email address of the Distributor's representative set out in the Supply Contract Details.

15.2.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume (provided always a delivery or read receipt is received by the sender).

15.2.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15.3 **Severance.** If any provision or part-provision of the Supply Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Supply Contract shall not be affected.

15.4 **Waiver.** A waiver of any right or remedy under the Supply Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

15.5 **No partnership.** Nothing in the Supply Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

15.6 **Third party rights.** No one other than a party to this Supply Contract shall have any right to enforce any of its terms.

15.7 **Variation.** Any variation to the Supply Contract shall be in writing and signed on behalf of each party save that Cairn Research shall be able to amend the Supply Conditions upon giving to the Purchaser not less than one month's notice.

- 15.8 **Governing law and jurisdiction.** The Supply Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England. The international rules for the interpretation of Incoterms prepared by the International Chamber of Commerce shall apply but where they conflict with these Supply Conditions, these Supply Conditions shall prevail.

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