



# JPL Telecom Ltd – Purchase Order Terms

(Version Date: March 2017)

## 1. Performance and Delivery

- 1.1. Supplier shall supply the Deliverables and perform the Services in accordance with the Order.
- 1.2. Supplier shall comply with all reasonable instructions provided by JPL.
- 1.3. Supplier shall deliver the Deliverables duty paid. Risk and title shall pass on delivery.

## 2. Price, Invoicing, Payment and Expenses

- 2.1. The Price is exclusive of Sales Tax and inclusive of all costs and expenses of whatever nature unless otherwise stated in the PO.
- 2.2. Supplier shall send JPL a Sales Tax invoice for the Price (meeting all requirements of the relevant tax authorities), marked with the PO number.
- 2.3. JPL will pay such invoices to Supplier within the payment terms set out in the PO unless there has been any material breach of the Order by Supplier in which case JPL shall be entitled to withhold payment until the breach is rectified.
- 2.4. JPL may set off any sums owed to JPL by Supplier against the Price.
- 2.5. If Supplier incorrectly charges Sales Tax to JPL, Supplier shall repay this Sales Tax to JPL together with related interest, penalties and costs within 30 days of the error being identified.
- 2.6. In the event that JPL is required by law to deduct withholding tax from the Price, JPL shall: (i) pay the Price less withholding tax; and (ii) provide evidence to Supplier that it has passed the withholding tax on to the relevant authority.
- 2.7. Supplier warrants that it is tax resident in its country of incorporation.

## 3. Warranties

- 3.1. Supplier warrants to JPL that all Deliverables and Services shall be supplied in accordance with the Order, and comply with all applicable laws.
- 3.2. Unless otherwise specified in the Order, Supplier warrants that each Deliverable shall be free from defects (save those caused by normal wear and tear) for 24 months (or in the case of software for 12 months) from delivery.

## 4. Indemnity

Supplier indemnifies all JPL Group Companies against all losses, liabilities, damages, claims and costs relating to the Order in connection with: (a) any alleged or actual infringement of IPR by or relating to the Deliverables or Services; (b) any alleged or actual infringement by or on behalf of Supplier of applicable data protection or confidentiality obligations; and (c) any damage to property and any claims for loss or injury to any person arising from Supplier's default, negligence, act or omission.

## 5. Limitation of Liability

No limitation applies in respect of Clause 4. Except where liability cannot be lawfully excluded, each party's liability in relation to any other claims relating to the Order shall be limited to the greater of the Price or £1,000,000.

## 6. Termination

- 6.1. Where a party materially breaches the Order and fails to remedy the breach within 7 days of receipt of notice of the breach from the non-breaching party, the non-breaching party may terminate the Order immediately on notice. Additionally, where Supplier is the breaching party, Supplier shall repay within 7 days any part of the Price which has been paid and JPL may return any Deliverables to Supplier (at Supplier's expense).
- 6.2. The Order may be terminated immediately on notice if either party becomes unable to pay its debts as they fall due or by JPL if a person who controls Supplier ceases to control Supplier.
- 6.3. JPL may terminate the Order at any time immediately on notice. In such circumstances JPL shall pay a reasonable proportion of the Price for any Deliverables or Services provided and any committed costs reasonably incurred prior to termination.

## 7. Intellectual Property Rights (IPR)

- 7.1. Supplier grants to JPL free of charge the unrestricted licence to use Supplier's pre-existing IPR as necessary for JPL to receive, hold and make use of the Deliverables and the Services and otherwise to fully and freely exploit any New IPR, which shall include without limitation, the right to: (a) make back-up copies of any Deliverable; and (b) modify or adapt any Deliverable to correct any errors or improve operation for interoperability.
- 7.2. Supplier shall notify JPL in writing if in its fulfilment of the Order it wishes to make use of Third Party IPR and warrants that it shall obtain all necessary permissions in respect of such Third Party IPR to enable it to perform its obligations under the Order and to allow JPL on an unrestricted and free of charge basis to receive, hold and make use of the Deliverables and the Services and otherwise to fully and freely exploit any New IPR.
- 7.3. JPL may grant sub-licences of the licences granted in Clause 7.1 and 7.2 to JPL Group Companies and third parties providing services to and receiving services from JPL Group Companies in connection with the Deliverables or Services.
- 7.4. Supplier shall at JPL's reasonable request and cost deposit all source code relating to software (save for commercially available Third Party IPR) necessary for the full enjoyment of the Deliverables with a recognised independent third party escrow agent 3 of 3 under the agent's standard escrow agreement.
- 7.5. Supplier shall not make use of any open source software in a Deliverable without the prior written agreement of JPL Director of Intellectual Property or authorised delegate.
- 7.6. All New IPR shall be exclusively owned by JPL and Supplier irrevocably and unconditionally assigns to JPL (by way of Present assignment of future rights) all right, title and interest in and to the New IPR. Supplier shall at its own cost do all things necessary to perfect such assignment. If it is not legally possible to make an assignment of the New IPR to JPL, Supplier shall grant to JPL as full and free an exclusive licence as possible of the New IPR, together with the exclusive right to control the exploitation of the New IPR.
- 7.7. Where a threat or claim of infringement of IPR jeopardises JPL's ability to fully and freely receive, hold and make use of any Deliverables, Supplier shall (without prejudice to any other rights of JPL) either obtain appropriate licences or otherwise supply redesigned Deliverables to enable JPL's continued exploitation of such Deliverables.
- 7.8. All licences granted under this Clause 7 shall continue after termination of the Order.

## 8. Confidentiality and Publicity

- 8.1. The parties will keep in confidence from the date of the Order and until two years from the earlier of the date of termination or completion of the Order any confidential information obtained under the Order and will not, without the written consent of the other party, disclose that confidential information or the existence or details of the Order to any person (other than their employees or professional advisers, or in the case of JPL the employees of a JPL Group Company or their suppliers or partners who need to know the information). The parties will use confidential information obtained under this Order only for the purposes of the Order.
- 8.2. The obligations set out in Clause 8.1 shall not apply to information which: (a) has been published other than through a breach of this Order; (b) is lawfully in the possession of the recipient before the disclosure under this Order took place; (c) has been obtained from a third party who is free to disclose it; or (d) which a party is required to disclose by law or for the purposes of a regulatory authority.

## 9. JPL Policies

Supplier shall respect JPL's Business Principles and shall comply with JPL's policies, including without limitation, the Code of Ethical Purchasing and Health & Safety Policy, as are available on the date of the PO on request.

## 10. General

- 10.1. Supplier shall insure against all foreseeable risks and liabilities which it may face in relation to the Order.
- 10.2. Each party may Transfer all or any of its rights or obligations under the Order to any Group Company provided that such Group Company is of no less financial standing than the relevant party, but may not otherwise Transfer all or any of its rights or obligations under the Order without the prior consent of the other party.
- 10.3. The Order shall be governed in accordance with the laws of England and Wales and each party irrevocably submits to the exclusive jurisdiction of the Courts of England and Wales in relation to the Order.
- 10.4. Any notice under the Order shall be in writing sent by first class post to the address of the other party as set out in the PO.

## 11. Definitions

"Deliverables" means the materials, physical media, goods, software and work product of any Services;

"Group Company" means a JPL Group Company, or an entity which owns Supplier or in respect of which Supplier owns (directly or indirectly) 50% or more of the issued share capital;

"IPR" means intellectual property rights;

"New IPR" means new IPR:

- (a) incorporated or embodied in the Deliverables;
- (b) arising from the performance of the Services; or
- (c) arising from any research, development, design, testing or other preparatory work carried out by Supplier in order to ensure that the Deliverables comply with the Order;

“Order” means the PO, Specification, these terms and any associated documentation identified in one of those documents as forming part of the Order;

“PO” means the purchase order;

“Price” means the price as set out in the PO;

“Sales Tax” means Value Added Tax or any similar tax in any relevant jurisdiction, including, without limitation, sales and use taxes;

“Services” means the work to be carried out by Supplier;

“Specification” means the requirements document(s) prepared in connection with the Order;

“Supplier” means the entity named as the Supplier on the PO;

“Third Party IPR” means IPR owned by any third party;

“Transfer” means assign, novate, subcontract or otherwise transfer;

“JPL” means the entity named as the Purchaser on the PO; and “JPL Group Company” means JPL Telecom Ltd, Burnside Technology Ltd, James Products Ltd, Telecom FM Ltd and any entity in respect of which JPL Holdings Ltd owns (directly or indirectly) 15% or more of the issued share capital.