
**KRAYMA TECHNICAL SOLUTIONS
LIMITED**

CORE CONDITIONS OF SUPPLY

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These Conditions apply to the supply, licence and support of software and hardware products, the supply of related equipment and the provision of system, development, managed and other IT services by Krayma Technical Solutions Limited (company number 7674074) whose registered office is at 13 Spinners Court, West End, Witney, OX28 1NH (“**Krayma**”) to the Client. These Conditions and the remainder of the Agreement apply to the exclusion of any other terms and conditions including any which the Client may attempt to introduce by way of purchase order or otherwise.

1. Definitions

In these Conditions, the following expressions will have the following meanings, unless inconsistent with the context:

“Additional Conditions”	those contractual conditions identified as Attachments to the Terms of Agreement or otherwise deemed part of the Agreement by virtue of clause 23
“Agreement”	the agreement between Krayma and the Client formed by these Conditions, the Terms of Agreement, the Proposal and any Additional Conditions
“Associated Company”	in relation to a party, its holding company or subsidiary or subsidiary of such holding company and the words “holding company” and “subsidiary” have the meanings given to them by section 736 Companies Act 1985
“Business Day”	any day which is not a Saturday, Sunday or public or bank holiday in England and Wales
“Business Hours”	the hours from 9.00am to 5.30pm (5.00pm on a Friday) on each Business Day
“Client”	the company, partnership or other entity identified as the “Client” in the Proposal and/or the Terms of Agreement
“Client Materials”	data, text, images, graphics, videos, logos and other content and materials (including specifications) provided to Krayma by the Client under or in connection with the Agreement
“Conditions”	this document (clauses 1 to 23)
“Contractual Obligations”	the contractual and legal obligations of Krayma arising under or in connection with the Agreement
“Equipment”	the hardware and/or equipment (if any) to be provided by Krayma to the Client pursuant to the Agreement, as defined in the Proposal
“Fees”	the sum of the fees and charges due to Krayma under the Agreement, as identified in the Proposal and the Agreement

“Intellectual Property Rights”	Any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating to the same
“Location(s)”	the location(s) where or in respect of which the Services may be provided or where the Software and/or Equipment may be installed, as identified in the Proposal
“Outstanding Monies”	any sums due and payable to Krayma under or in connection with the Agreement, the due date for payment of the same having passed
“party”	a contractual party to the Agreement and “parties” means both contractual parties to the Agreement
“Proposal”	the proposal document or order form appended to the Terms of Agreement, as the same may be varied or superseded from time to time with the agreement in writing of the parties
“Krayma Software”	proprietary software products of Krayma and other software licensed to the Client by Krayma, provided to the Client pursuant to the Agreement, as described in the Proposal
“Services”	the services provided by Krayma to the Client pursuant to the Agreement, as described in the Proposal
“SLA”	the service level agreement for the Managed Services, appended to the Agreement and which forms part of the Agreement
“Software”	the Krayma Software and Third Party Software
“Software Documentation”	the operating manuals, user instructions, technical literature and all other related materials in eye-readable form supplied to the Client by Krayma from time to time for aiding use of the Krayma Software
“Software Materials”	the Krayma Software and Software Documentation and the media upon which any of the foregoing are recorded

“System”	the Client’s computer equipment on which the Software is loaded or in connection with which the Equipment and/or Services are provided (but, save as provided elsewhere in the Agreement, excluding the Software and Equipment)
“Terms of Agreement”	the document entitled “Terms of Agreement” to which these Conditions are attached
“Third Party Software”	the software (if any) identified as “software which does form part of the Supported System” in the SLA provided by Krayma to the Client pursuant to the Agreement
“Update”	any updated or enhanced version of the Krayma Software but excluding any version incorporating substantial new functionality

2. Krayma General Obligations

Krayma shall perform its Contractual Obligations in a timely manner. Save as set out elsewhere in the Agreement, Krayma will use its best endeavours to perform its Contractual Obligations in accordance with any timescale set out in the Agreement but will have no liability in the event that it is unable to meet that timescale, using best endeavours. Time will not, except where indicated in the SLA, be of the essence with respect to the performance of any Contractual Obligation.

3. Client’s General Obligations

- 3.1. The Client will promptly provide to Krayma such information, materials and assistance as they may reasonably require in order to be able to perform the Contractual Obligations.
- 3.2. Where Krayma is to perform any Contractual Obligation at a Location, the Client will provide without charge suitable office accommodation, materials, equipment and support services (including use of telephone and IT systems and services) which Krayma may require in order to perform that Contractual Obligation.
- 3.3. The Client will procure all necessary rights from third parties (including intellectual property licences in relation to computer software) which may from time to time be required by Krayma for it to be able legally to perform the Contractual Obligations.
- 3.4. The Client will use its best endeavours to perform all obligations identified as being its responsibility in the Proposal in accordance with any timescales set out in the Proposal, or if no timescales are set out, within a reasonable time taking account of the relevant Contractual Obligations.
- 3.5. The Client will prior to installation of any Software and/or Equipment or provision of any Services ensure that the System meets those minimum requirements set out in the Proposal.
- 3.6. The Client warrants that all Client Materials will be accurate in all material respects and will not knowingly include material which is illegal or the accessing, holding, transmitting or supplying of which would be a criminal offence or otherwise unlawful or in breach of any law or codes of practice applying to the Client Materials. Without prejudice to the foregoing, Krayma may decline to use any Client Materials on any reasonable grounds.

- 3.7. The Client shall provide Krayma with full and safe access to the Location(s) and a safe working environment.
- 3.8. Krayma may, in order to facilitate the provision or the Client's use of any Services, provide the Client with access to certain software and other systems. The Client will use such systems only for the purposes of making use of the relevant Services for so long as the relevant Services are provided and in strict conformance with any user requirements notified to it in writing by Krayma.
- 3.9. Where any Software, Equipment or Services are being provided for the benefit of a customer of the Client then the Client will, to the extent relevant, procure compliance by that customer with the Client's obligations under the Agreement as if that customer were, for the purposes of such obligations, the Client.
- 3.10. The Client will ensure that persons using the Software, Equipment and/or System or making use of the Services have appropriate competence in the use of relevant IT systems and will, where Krayma requires, procure that such persons undertake such training as Krayma may reasonably require prior to making use of such systems.

4. Payment Terms

- 4.1. Any sums payable by the Client to Krayma under the Agreement are exclusive of value added tax or any similar tax, levy or duty, which will be added to such sums and be payable by the Client at the appropriate rate.
- 4.2. The Fees are exclusive of:
 - 4.2.1. reasonable travelling expenses to and from the relevant Location(s);
 - 4.2.2. other reasonable expenses of Krayma incurred in connection with the provision of the Services (including travel, accommodation, subsistence and the cost of materials and agreed third party services); and
 - 4.2.3. costs of software, equipment and/or services over and above those identified in the Proposal which may be charged to Krayma by a third party supplier;

which will be payable by the Client, where Krayma requires, in accordance with the provisions of the Agreement and in addition to the relevant Fees.
- 4.3. The Client agrees to pay Krayma' invoices for software, equipment and services provided under the Agreement within 14 days of the date the invoice is received by the Client. If invoices are not settled in full by then, the Client will be liable to pay interest on any sum outstanding from the due date for payment at the annual rate of 8% above the UK base lending rate from time to time of Barclays Bank plc accruing on a daily basis until payment is made and whether before or after any judgment. In such circumstances, Krayma may also suspend provision of further software, equipment and services under or in connection with the Agreement until such time as all Outstanding Monies have been paid in full and in clear funds by the Client.
- 4.4. All invoices shall be deemed correct and approved by the Client unless either manifest clerical errors have been made or the Client sends a notice making a bona fide complaint on any aspect of an invoice within 14 days of the invoice date specifying in what way the invoice is inconsistent with the provisions of the Agreement. In any event, save where the client has in writing raised a bona fide dispute, all amounts payable to Krayma under or in connection with the Agreement will be payable without set-off, deduction or counterclaim by the due date.

5. Cancellation and Rescheduling

Unless otherwise agreed in writing, any request by the Customer for cancellation of any order or for the rescheduling of any deliveries will only be considered by the Company if made at least 12 hours before despatch of the Products, and shall be subject to acceptance by the Company at the Company's sole discretion, and subject to a reasonable administration charge. The Customer hereby agrees to indemnify against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, (including the cost of labour and materials used and overheads incurred, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company arising out of or in connection with the order and its cancellation or rescheduling.

6. Confidential Information

6.1. Each party will (unless contrary to law):

6.1.1. keep confidential all information obtained from the other under or in connection with the Agreement (“**Information**”);

6.1.2. not disclose any Information to a third party without the prior written consent of the other except to persons to the extent strictly necessary for the performance of the Agreement; and

6.1.3. not use any Information otherwise than for the purposes of the Agreement.

6.2. Each party will take all necessary precautions to ensure that Information:

6.2.1. is given to its employees or sub-contractors only to the extent necessary for that person's activities in connection with the Agreement; and

6.2.2. is treated as confidential and not disclosed (without prior approval) or used by any person otherwise than for the purposes of the Agreement.

6.3. The provisions of clauses 6.1 and 6.2 do not apply to Information to the extent it:

6.3.1. is or becomes public knowledge (otherwise than by breach of this clause);

6.3.2. was in the possession of the party concerned without restriction as to its disclosure before receiving it from the disclosing party; or

6.3.3. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.

Nothing in this clause 6 prevents either party from disclosing Information for a proper purpose to a public authority or regulatory body, or to a court of law in the United Kingdom or elsewhere in legal proceedings, or to its senior management, auditors, bankers, lawyers or other professional advisers.

6.4. Nothing in this clause 6 prevents either party from using any techniques, ideas or know how gained during the performance of the Agreement in the course of its normal business to the extent that this does not result in a disclosure of confidential information.

6.5. The provisions of this clause 6 will continue to apply notwithstanding termination of the Agreement.

7. Ownership

- 7.1. Title in goods supplied by Krayma shall pass to the Client upon receipt by Krayma of the full price of the goods including value added tax or any other tax, carriage insurance or any other costs incurred on behalf of the Client. Until such time as all Outstanding Monies have been paid in full and in clear funds by the Client, the Client shall hold the goods clearly identified as the property of Krayma, properly insured and unmixed with other goods.
- 7.2. Until such time as the title of the goods passes to the Client, Krayma shall be entitled at any time required to enter upon any premises of the Client or any third party where the goods are stored and repossess the goods.

8. Intellectual Property

- 8.1. The Client acknowledges and agrees that it will not own or acquire ownership of any Intellectual Property Rights in Software Materials provided under or in connection with the Agreement and will have no rights in or to any Software Materials other than as expressly granted by the Agreement.
- 8.2. The Client will indemnify and keep Krayma indemnified in full from and against all costs (including costs of enforcement), expenses, liabilities (including tax liability), injuries, losses, damages, claims, demands, legal costs (on a full indemnity basis) and judgments which Krayma incurs or suffers as a consequence of infringement of any Intellectual Property Right of a third party arising directly or indirectly from:
 - 8.2.1. the provision by Krayma of equipment, software and/or services following or otherwise making use of information or specifications supplied by the Client;
 - 8.2.2. the Client's failure to procure necessary rights from third parties (including intellectual property licences in relation to computer software) from time to time required by Krayma in order for it to legally perform its Contractual Obligations; or
 - 8.2.3. the use by Krayma of the Client Materials in connection with the Agreement.
- 8.3. All Intellectual Property Rights in or relating to any software or other product or materials created or developed by Krayma in connection with the Agreement (other than the Krayma Software) will be licensed to the Client under the Agreement on the same basis as the Krayma Software as if it were part of the Krayma Software.

9. Contract Management and Change Control

- 9.1. The parties will, where considered appropriate by Krayma, meet on a bi-annual basis to discuss issues arising in connection with the Agreement.
- 9.2. Either party may propose a modification to any of the Software, Equipment and/or Services in writing to the other (a “**Change**”), specifying in as much detail as is reasonably practicable the nature of the change and any additional work or materials required. Within 30 days of sending or receipt of a request for a Change, Krayma will provide to the Client a brief written proposal including details of the Change, any resulting change in the Fees, a timetable for implementation of the Change and details of the likely impact, if any, of the Change on the provisions of the Agreement. The Client will review the written proposal and will as soon as reasonably practicable and in any event within 30 Business Days after its receipt from Krayma either:
 - 9.2.1. accept the proposed Change whereupon the Agreement will be varied accordingly; or
 - 9.2.2. reject the Change, which will lead to a discussion of the reasons for rejection and the parties endeavouring to agree in good faith an acceptable amendment to the Change proposal.

10. Liability

- 10.1. Save as specifically referred to elsewhere in the Agreement, the provisions of this clause set out the entire liability of Krayma (including any liability for the acts or omissions of its consultants, employees, agents and authorised representatives) to the Client in respect of:
 - 10.1.1. any breach of the Agreement; and
 - 10.1.2. any representation, statement or tortious act or omission including negligence arising under or in connection with the Agreement.
- 10.2. All warranties, conditions and other terms implied by statute or common law (save for conditions implied by section 12 Sale of Goods Act 1979) are excluded from the Agreement to the fullest extent permitted by law.
- 10.3. Nothing in the Agreement excludes or limits the liability of Krayma for death or personal injury caused by the negligence of Krayma or for fraud.
- 10.4. Subject to clauses 10.2 and 10.3 the total liability of Krayma in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the Agreement is:
 - 10.4.1. in the case of damage or loss to tangible property, limited to £100,000; and
 - 10.4.2. in the case of any other loss, limited to once the amount of the Fees paid by the Client to Krayma pursuant to the Agreement (excluding VAT and expenses) during the preceding twelve month period.
- 10.5. Subject again to clauses 10.2 and 10.3, Krayma will not be liable to the Client in contract, tort, misrepresentation or otherwise (including negligence), for any indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever, or for any loss of profit, loss of business, depletion of goodwill or otherwise (whether direct or indirect), and whether or not caused by the negligence of Krayma or its employees, agents or authorised representatives, which arises out of or in connection with the Agreement.
- 10.6. Krayma will not be liable under or in connection with the Agreement for a failure to meet any Contractual Obligation which results from a breach of the Agreement by the Client or default (including negligence) of the Client or any agent or subcontractor of the Client.

- 10.7. Save where the Proposal provides otherwise, Krayma will not be liable to the Customer whether in contract, tort, misrepresentation or otherwise for any failure or defect in any Third Party Software, equipment or other systems supplied by a third party and Krayma's only responsibility in connection with the same will be to install such systems (where the Proposal provides for installation) and to provide to the Client such user documentation as relates to such systems as it may receive from the manufacturer. All such systems will be supplied on the basis of the relevant third party supplier's standard terms of supply which will be provided to the Client and with which it agrees to comply.

11. Force Majeure

Neither party is under any liability to the other party in respect of anything which apart from this provision would constitute a breach of the Agreement and which arises by reason of force majeure. "Force majeure" means, in relation to either party, circumstances beyond its reasonable control and includes acts of God, acts of any governmental or supra-national authority, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs (whether or not by that party), strikes and other industrial disputes (in each case, whether or not relating to that party's workforce), failure of the internet or third party networks or systems, restraints or delays affecting shipping or carriers, an inability or delay in obtaining supplies of adequate or suitable materials and currency restrictions.

12. Termination

Without prejudice to any rights of termination set out elsewhere in the Agreement:

- 12.1. Krayma may immediately terminate the Agreement (or, at its option, any part of it including the provision of any discrete element of service or systems) after 7 days of granting notice in writing to the Client if the Client fails to pay to Krayma any sum due under the Agreement on the due date for payment;
- 12.2. either party may immediately terminate the Agreement (or, at its option, any part of it) by notice in writing to the other if the other:
- 12.2.1. is in material breach of the Agreement and fails (where the breach is capable of remedy) to remedy the breach within 30 days of the receipt of a request in writing to remedy the breach, such request setting out the breach and indicating that failure to remedy the breach may result in termination of the Agreement;
 - 12.2.2. becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986;
 - 12.2.3. is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 12.2.4. has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking assets or income, has passed a resolution for its winding-up, or has a petition presented to any court for its winding-up or for an administration order; or
 - 12.2.5. has ceased or threatened to cease to trade.

13. Consequences of Termination

- 13.1. Termination of the Agreement is without prejudice to the rights and duties of either party accrued prior to termination.
- 13.2. Clauses of the Agreement which expressly or by implication have effect after termination will continue to be enforceable notwithstanding termination.

- 13.3. Upon termination of the Agreement, the Client will immediately pay to Krayma all monies outstanding that reflect either goods and services delivered and invoiced or such goods and services as delivered which have yet to be invoiced.

14. Dispute Resolution

- 14.1. Any dispute or difference (a “**Dispute**”) between Krayma and the Client in respect of or arising out of the Agreement will be dealt with in accordance with this clause 14.
- 14.2. In the first instance, a representative of each party will each use their reasonable endeavours to resolve the Dispute. If the Dispute cannot be resolved by such representatives, it will be referred to a senior representative of each party, who shall each use their respective reasonable endeavours to resolve the Dispute.
- 14.3. If a Dispute cannot be resolved by negotiation as referred to in clause 14.2 within 30 days of the Dispute arising, either party may refer the Dispute for determination in accordance with the mediation procedure administered by the Centre for Dispute Resolution (CEDR), the costs of the mediator being split equally between the parties but who will otherwise bear their own costs of the reference.

15. Right of Audit

Krayma will be entitled to enter onto the Client’s premises during Business Hours and upon 48 hours’ notice in order to verify that the Client is complying with its obligations under the Agreement. Krayma may in connection with such right inspect documents and to take copies of the same. The Client will reimburse to Krayma its audit costs associated with such an audit where the audit identifies breaches by the Client of the provisions of the Agreement.

16. Non-Solicitation

Neither party will during the continuance of the Agreement and a period of 12 months following its termination solicit or entice, or Endeavour to solicit or entice, away from the other party, or employ or offer employment to any person employed in connection with the provision of software, equipment and services under or in connection with the Agreement.

17. Publicity

Krayma will be entitled to refer to the Client as being a customer of Krayma and having received IT systems and services from it on its website and any publicity or other materials from time to time produced by it.

18. Severability

The illegality, invalidity or unenforceability of any provision of the Agreement will not affect the legality, validity or enforceability of the remainder. If any such provision is found by any court or competent authority to be illegal, invalid or unenforceable, the parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

19. Waiver

- 19.1. The failure or delay of either party to exercise any right, power or remedy of that party under the Agreement will not in any circumstances impair such right, power or remedy or operate as a waiver of it. The single or partial exercise by either party of any right, power or remedy under the Agreement will not in any circumstances preclude any other or further exercise of it or the exercise of any other right, power or remedy.
- 19.2. Any waiver by either party of a breach of or default under any provision of the Agreement by the other is not deemed a waiver of any subsequent breach or default and in no way affects the other provisions of the Agreement.

20. Assignment and Subcontracting

- 20.1. The Client may not assign the benefit or delegate the burden of the Agreement or sub-license any of its rights under the Agreement (including to any Associated Company) without the prior written consent of Krayma.
- 20.2. Krayma may sub-contract or assign any or all of its rights and obligations under the Agreement subject to the consent of the Client which shall not be unreasonably withheld.

21. Amendments

No variation or amendment to the Agreement is effective unless agreed in writing and signed by both parties or in accordance with clause 7.

22. Notices

Any notice to be given or made by either party under or in connection with the Agreement must be in writing and given or made to the other party at its address stated in the Proposal or to such other address as either party may from time to time notify to the other. Every notice, if so addressed, is deemed to have been duly given or made, if delivered by hand, upon delivery at the address of the relevant party, if sent by prepaid first class post, two Business Days after the date of posting and if transmitted by facsimile, at the time of transmission (provided a confirmatory letter is sent by prepaid first class post) provided that, where, in accordance with the above provisions, any notice would otherwise be deemed to be given or made on a day which is not a Business Day or after 4.00 p.m. on a Business Day, such notice shall be deemed to be given or made at 9.00 a.m. on the next Business Day.

23. Applicable Law and Jurisdiction

The construction, performance and validity of the Agreement will be governed by English law and the English courts have exclusive jurisdiction to settle any disputes which may arise out of or in connection with it. The Agreement will be deemed to have been made in Nottingham, England.

24. Interpretation

- 24.1. The headings used in the Agreement are inserted for convenience only and are intended neither to be part of nor to affect the meaning or interpretation of any provision of the Agreement.
- 24.2. Reference in these Conditions to clauses will unless the context otherwise requires mean clauses of these Conditions.
- 24.3. In the Agreement the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context admits or requires.
- 24.4. The expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture.
- 24.5. In the event of a conflict between any provision of these Conditions or the Additional Conditions, on the one hand, and the Proposal, on the other, the conflict will be resolved according to the following order of priority: these Conditions or the Additional Conditions, as the case may be, then the Proposal.
- 24.6. The words “include”, “includes”, “including” and “included” will be construed without limitation unless inconsistent with the context.
- 24.7. The Agreement (as varied in accordance with its terms) forms the entire understanding of the parties in respect of the matters dealt with in it and supersedes all previous agreements, understandings and negotiations between them.

- 24.8. The parties do not intend that any terms of the Agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not party to the Agreement.

25. Application of Additional Conditions

The definition of “Additional Conditions” will be deemed to include:

- 25.1. Krayma’ standard Software Licence Conditions where Krayma is in connection with the Agreement licensing software products to the Client and the Software will be deemed to include those software products so licensed;
- 25.2. Krayma’ standard Equipment Supply Conditions where Krayma is in connection with the Agreement supplying hardware and/or equipment to the Client and the Equipment will be deemed to include that hardware and/or equipment so supplied;
- 25.3. Krayma’ standard System Services Conditions where Krayma is in connection with the Agreement supplying system services to the Client (other than hosting and support) and the Services will be deemed to include those services so supplied;
- 25.4. Krayma’ standard Managed Services Conditions where Krayma is in connection with the Agreement supplying system support services to the Client and the Services will be deemed to include those support services so supplied; and
- 25.5. Krayma’ standard Hosting Conditions where Krayma is in connection with the Agreement hosting systems and infrastructure on behalf of the Client and the Services will be deemed to include those hosting services so supplied.