



TERMS AND CONDITIONS

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Our terms

1. These terms

1.1 **What these terms cover.** These are the terms and conditions on which we supply products to you, whether these are goods, services or digital content.

1.2 **Why you should read them.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms, please contact us to discuss.

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 14 (LIABILITY).

1.3 **Are you a business customer or a consumer?** These Terms and Conditions are drafted for business customers only and therefore if you believe you may be a consumer customer please contact us directly.

1.4 **If you are a business customer this is our entire agreement with you.** If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

2. Information about us and how to contact us

2.1 **Who we are.** We are HELIOCENTRIX a company registered in England and Wales. Our company registration number is 06608801 and our registered office is at Beech House, Thorn Road, Marden, TN12 9EJ. Our registered VAT number is 971799948.

2.2 **How to contact us.** You can contact us by telephoning our customer service team at **01732 600 170** or by writing to us at info@heliocentrix.co.uk or **Heliocentrix Ltd, Beech House, Thorn Road, Marden, TN12 9EJ**. Please note that we will record our telephone calls for training and improvement purposes.

2.3 **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

2.4 **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

3. Our contract with you

3.1 **Our estimates are for information purposes only.** Any estimate provided by us prior to you submitting an order:

- 3.1.1 is for information purposes only. It is not a binding offer by us to supply services or goods on the terms of the estimate and these conditions; and
- 3.1.2 will be valid for 20 days only from the date of issue unless otherwise stated.
- 3.2 **The sending of the Quote or Proposal by us to you constitutes an offer.** The Offer may be withdrawn by us at any point prior to it being accepted by you.
- 3.3 **Placing an order with us means you are accepting our offer of our services or goods.** This will be in accordance with these terms and conditions. If we do not receive a signed quotation from you within 30 days from the date we sent you the Quote or Proposal our offer will have deemed to have been withdrawn.
- 3.4 **How we will accept your order.** Our acceptance of your order will take place when we email you to accept your submission of your signed quotation, at which point a contract will come into existence between you and us. We reserve the right at all times to reject any order, in whole or in part, at our sole discretion.
- 3.5 **If we cannot accept your order.** If we are unable to accept your order, we will inform you of this and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified.
- 3.6 **Your order number.** We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.
- 3.7 **Each order shall be deemed to be a separate contract irrespective of whether more than one or all of them are included on the same Order Form.**
- 3.8 **We may not be able to accept any orders from abroad.** While we will use reasonable endeavors to accept orders from outside the UK, we are under no obligation to do so. We will not accept any variation to these Conditions, an Order or quotation from us unless the variation is expressly agreed by us in writing and signed by a duly authorised signatory on our behalf.
- 4. Our products**
- 4.1 **Our Products are both goods and services.** We supply goods and services to our customers. In these Conditions the wording "Product" refers to both goods and services.
- 4.2 **Products may vary slightly from their pictures.** The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly

from those images. They shall not form part of the Contract nor have any contractual force.

- 4.3 **Product packaging may vary.** The packaging of the product may vary from that shown in images on our website.
- 4.4 **If we need to purchase any materials, goods or parts we may need to charge.** We will obtain any necessary materials from a local supplier, where possible. We normally charge for the travel time at our normal charging rate. If the materials are not available from a local supplier we will order the materials and return on another occasion to continue to perform the services. We will not charge you for any time spent in obtaining materials if we have bought or ordered the wrong materials. In such circumstances we will normally charge for the time spent in making telephone calls to suppliers or our office to locate the required materials.
- 4.5 **If you are using one of our fixed line telephone service or mobile phone products then this is subject to fair usage.** Please see our website for details and information about our Fair Usage Policy.
- 4.6 **We shall use reasonable endeavours to meet performance dates.** If we have agreed with you any performance dates in the Quote or Proposal we shall use reasonable endeavours to meet these dates but any such dates shall be estimates only and time shall not be of the essence for performance by the Company.

5. **Customer's obligations**

- 5.1 You shall:
- 5.1.1 ensure that the terms of the Signed Quote and any information it provides are complete and accurate;
 - 5.1.2 co-operate with us in all matters relating to the Product;
 - 5.1.3 provide us, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by us
 - 5.1.4 provide us with such information and materials as we may reasonably require in order to supply the Product, and ensure that such information is complete and accurate in all material respects;
 - 5.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Product are to start;
 - 5.1.6 comply with all applicable laws, including health and safety laws;
 - 5.1.7 keep all materials, equipment, documents and other property of ours (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the

Supplier, and not dispose of or use the Supplier Materials other than in accordance with our written instructions or authorisation; and

5.1.8 comply with any additional obligations as set out in the Signed Order.

5.2 If our performance of any of its obligations are prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

5.2.1 without limiting or affecting any other right or remedy available to it, we shall have the right to suspend performance of the Products until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays our performance of any of its obligations;

5.2.2 We shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from our failure or delay to perform any of its obligations as set out in this clause 5.2; and

5.2.3 the Customer shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.

6. **Your rights to make changes**

If you wish to make a change to the product you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.

7. **Our rights to make changes**

7.1 **Minor changes to the products.** We may change the product:

7.1.1 to reflect changes in relevant laws and regulatory requirements;

7.1.2 to comply or reflect any safety requirements; and

7.1.3 to implement minor technical adjustments and improvements, for example to address a security threat. These changes will not affect your use of the product but we will advise you in writing of any changes and their effect.

7.2 **Updates to digital content.** We may update or require you to update digital content, provided that the digital content shall always match the description of it that we provided to you before you bought it.

8. **Providing the products**

8.1 **Delivery costs.** The costs of delivery will be as displayed to you on our website.

8.2 **When we will provide the products.**

- 8.2.1 **If the products are goods.** If the products are goods we will contact you to agree a delivery date, which will be within 30 days after the day on which we accept your signed quotation unless otherwise agreed.
- 8.2.2 **If the products are one-off services.** We will endeavour to begin the services on the date agreed with you during the order process unless exceptional circumstances or events beyond our reasonable control prevent us doing so. The estimated completion date for the services is as told to you during the order process.
- 8.2.3 **If the product is a one-off purchase of digital content.** We will make the digital content available for download by you as soon as soon as reasonably possible.
- 8.2.4 **If the products are ongoing services or a subscription to receive goods or digital content.** We will supply the services, goods or digital content to you until either the services are completed or the subscription expires (if applicable) or you end the contract as described in clause 9 or we end the contract by written notice to you as described in clause 11.

We shall use all reasonable endeavours to deliver any products on or by any date or dates specified, but any such dates shall be estimates or for guidance only and time shall not be of the essence for the performance of the products.

- 8.3 **We are not responsible for delays outside our control.** Our delivery of products may be affected by certain situations or events that occur that are not within our reasonable control (including any delay caused by you or your employees). Where one of these occurs we will contact you as soon as possible to let you know, take steps to minimise the effect of the delay and attempt to recommence performing the Services as soon as the situation which has stopped us performing the Services has been resolved. In such circumstances there may be a delay (sometimes a substantial delay) before we can start or continue performing the Services. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any products you have paid for but not received.

- 8.4 **If there are delays in the provision of one product you are not entitled to cancel the provision of other products you have ordered through us (if any).**

- 8.5 **Collection by you.** If you have asked to collect the products from our premises, you can collect them from us at any time during our working hours of 9:00am until 5:00pm on weekdays (excluding public holidays).

- 8.6 **If you are not at home when the product is delivered.** If no one is available at your address to take delivery and the products (if goods) cannot be posted through your letterbox, you will be responsible for contacting the courier (whose details we will

provide after we receive acceptance of your signed quotation) directly to arrange alternative delivery.

- 8.7 **If you do not re-arrange delivery.** If you do not re-arrange delivery or collect them from a delivery depot and the product is returned to us we will contact you for further instructions and may charge you for storage costs and any further delivery costs. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and clause 11.2 will apply.
- 8.8 **If you do not allow us access to provide services.** If you do not allow us access to your property to perform the services as arranged (and you do not have a good reason for this) we may charge you additional costs incurred by us as a result. If, despite our reasonable efforts, we are unable to contact you or re-arrange access to your property we may end the contract and clause 11.2 will apply. We will not be liable to you for any losses or costs you sustain as a result of the failure of us to provide the services or products.
- 8.9 **When you become responsible for the goods.** A product which is goods will be your responsibility from the time we deliver the product to the address you gave us or you or a carrier organised by you collect it from us.
- 8.10 **When you own goods.** You own a product which is goods once we have received payment in full.
- 8.11 **What will happen if you do not give required information to us.** We may need certain information from you so that we can supply the products to you. If so, this will have been stated in the description of the products on our proposal or quote or requested at the time we accept your signed proposal. We will contact you to ask for this information. If you do not give us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the contract (and clause 11.2 will apply) or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.
- 8.12 **If you are a business we will assume all your staff and employees have authority to request support and speak to us about the product.** It is your responsibility to tell us if this is not the case.
- 8.13 **Reasons we may suspend the supply of products to you.** We may have to suspend the supply of a product to:
- 8.13.1 deal with technical problems or make minor technical changes;
 - 8.13.2 update the product to reflect changes in relevant laws and regulatory requirements;

- 8.13.3 make changes to the product as requested by you or notified by us to you (see clause 7).
- 8.14 **Your rights if we suspend the supply of products.** We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. If we have to suspend the product for longer than three (3) days in any calendar month we will adjust the price so that you do not pay for products while they are suspended. You may contact us to end the contract for a product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 2 weeks and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract.
- 8.15 **We may also suspend supply of the products if you do not pay.** If you do not pay us for the products when you are supposed to (see clause 14.5) and you still do not make payment within 21 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the products. We will not suspend the products where you dispute the unpaid invoice (see clause 14.8). We will not charge you for the products during the period for which they are suspended. As well as suspending the products we can also charge you interest on your overdue payments (see clause 14.7).
- 8.16 All intellectual property rights in or arising out of or in connection with the Products (other than intellectual property rights in any materials provided by you) shall be owned by us and we grant to you a fully paid-up, worldwide, non-exclusive, royalty free licence during the term of the contract.

9. **Your rights to end the contract**

- 9.1 **You can always end your contract with us.** Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing, when you decide to end the contract:
- 9.1.1 **If what you have bought is faulty or mis-described you may have a legal right to end the contract** (or to get the product repaired or replaced or a service re-performed or to get some or all of your money back), **see** clause 13 if you are a business;
- 9.1.2 **If you want to end the contract because of something we have done or have told you we are going to do, see** clause 9.2;
- 9.1.3 **In all other cases (if we are not at fault), see** clause 9.3.
- 9.2 **Ending the contract because of something we have done or are going to do.** If you are ending a contract for a reason set out at (a) to (e) below the contract will end immediately and we will refund you in full for any products which have not been provided and you may also be entitled to compensation. The reasons are:

- 9.2.1 we have told you about an upcoming change to the product or these terms which you do not agree to;
 - 9.2.2 we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;
 - 9.2.3 there is a risk that supply of the products may be significantly delayed because of events outside our control;
 - 9.2.4 we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 30 days; or
 - 9.2.5 you have a legal right to end the contract because of something we have done wrong.
- 9.3 If you cancel an order after delivery of goods, you must send the goods back to us (see how to at clause 9). You must take reasonable care of the goods. You remain liable for the goods, including for their accidental loss or destruction, until delivery or receipt on pick-up of the goods back to us. You will also be liable to reimburse us for any 'restocking' fees charged by the supplier for the return of the goods after purchase. Any such charges will be notified to you as soon as reasonably practicable.
- 9.4 **Ending the contract where we are not at fault and there is no right to change your mind.** Even if we are not at fault you can still end the contract before it is completed, but you may have to pay us compensation for the time spent on providing the product. A contract for goods or digital content is completed when the product is fully delivered, downloaded or streamed and paid for. A contract for services is completed when we have finished providing the services and you have paid for them. If you want to end a contract before it is completed where we are not at fault contact us to let us know. The contract will end and we will refund any sums paid by you for products or services not provided but we may deduct from that refund (or, if you have not made an advance payment, charge you) reasonable compensation for the time spent to date by us on providing you with the product to date and net costs we will incur as a result of your ending the contract and our reasonable direct costs of recovering the any goods if you fail to pay the costs of sending the goods back to us, subject to your taking reasonable care of the good until delivery of them back to us.

10. How to end the contract with us

- 10.1 **Tell us you want to end the contract.** To end your contract for services with us, please let us know in writing allowing 30 days before any renewal, by doing one of the following:
- 10.1.1 **email.** Email us at info@heliocentrix.co.uk.
 - 10.1.2 **By post.** Print off the form attached to the end of these Terms & Conditions in Schedule 1 and post it to us at the address on the form. Or simply write

to us at that address, including details of what you bought, when you ordered or received it and your name and address.

10.2 Returning products after ending the contract. If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us. You must either return the goods in person to where you bought them, post them back to us at Beech House, Thorn Road, Marden, TN12 9EJ or (if they are not suitable for posting) allow us to collect them from you. Please call customer services on 01732 600170 or email us at info@heliocentrix.co.uk to arrange collection-

10.3 When we will pay the costs of return. We will pay the costs of return:

10.3.1 if the products are faulty or misdescribed; or

10.3.2 if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong.

In all other circumstances you must pay the costs of return.

10.4 What we charge for collection. If you are responsible for the costs of return and we are collecting the product from you, we will charge you the direct cost to us of collection. The costs of collection will be determined by the courier used.

10.5 How we will refund you. If you are entitled to a refund under these terms we will refund you the price you paid for the products including delivery costs, by the method you used for payment. However, we may make deductions from the price, as described below.

10.6 When we may make deduction from refunds. If you are exercising your right to change your mind:

10.6.1 We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop. If we refund you the price paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.

10.6.2 The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.

10.6.3 Where the product is a service, we may deduct from any refund an amount for the supply of the service for the period for which it was supplied, ending with the time when you told us you had changed your mind. The amount

will be in proportion to what has been supplied, in comparison with the full coverage of the contract.

10.7 **When your refund will be made.** We will make any refunds due to you within 21 days.

11. **Our rights to end the contract**

11.1 **We may end the contract if you break it.** We may end the contract for a product at any time by writing to you if:

11.1.1 we are obliged to end it as a result of our obligations to comply with any order, instruction or request of any competent governmental body;

11.1.2 you do not make any payment to us when it is due and you still do not make payment within 14 days of us reminding you that payment is due;

11.1.3 you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products;

11.1.4 you do not, within a reasonable time, allow us to deliver the products to you or collect them from us;

11.1.5 we are providing you with web-hosting products and it is being used to carry out cyber-attacks or in our reasonable opinion is having an adverse affect on other clients of ours;

11.1.6 you do not, within a reasonable time, allow us access to your premises to supply the services; or

11.1.7 we reasonably believe the products are being used fraudulently or unlawfully.

11.2 **You must compensate us if you break the contract.** If we end the contract in the situations set out in clause 11.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

11.3 **We may withdraw the product.** We may write to you to let you know that we are going to stop providing the product to you. We will let you know at least **30 days** in advance of our stopping the supply of the product and will refund any sums you have paid in advance for products which will not be provided.

11.4 **We may delete the server.** If the work we are carrying out for you and the products we are supplying relies on a server hosted by us and in our reasonable opinion we believe there is a security risk to either your or our own business we reserve the right to delete the server.

12. **If there is a problem with the product**

12.1 **How to tell us about problems.** If you have any questions or complaints about the product, please contact us. You can telephone our customer service team at 01732

600 170 or write to us at complaints@heliocentrix.co.uk and Beech House, Thorn Road, Marden, TN12 9EJ

12.2 **It is your responsibility to tell us of any changes to your business that may affect the product and how well it works.** We are not liable to you should you fail to inform us of any changes that might cause the product to not work fully (for example, this includes you storing files in a different location or locking us out of files).

13. Your rights in respect of defective products if you are a business

13.1 If you are a business customer we warrant for a period of 12 months that on delivery any products which are goods shall:

13.1.1 conform in all material respects with their description and any relevant specification;

13.1.2 be free from material defects in design, material and workmanship;

13.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);
and

13.1.4 be fit for any purpose held out by us.

13.2 If you are a business customer we warrant that on delivery any products which are services shall:

13.2.1 we will use all reasonable endeavours to commence the provision of services by any commencement date set out in the order;

13.2.2 we will use all reasonable endeavours to complete the performance of the whole or any part of the services by the relevant completion date set out in the order, if specified;

13.2.3 the services will be provided with all reasonable skill and care; and

13.2.4 the services will comply with their description set out in the order.

13.3 It is your responsibility to report any faults, if applicable.

13.4 Subject to clause 13.5 if:

13.4.1 you give us notice in writing within a reasonable time of discovery that a product does not comply with the warranty set out in clause 13.1;

13.4.2 we are given a reasonable opportunity of examining such product;

we shall, at our option, repair or replace the defective product, or refund the price of the defective product in full.

13.5 We will not be liable for a product's failure to comply with the warranty in clause 13.1 and 13.2 if:

13.5.1 you make any further use of such product after giving a notice in accordance with clause 13.4.1;

- 13.5.2 the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) good trade practice;
 - 13.5.3 the defect arises as a result of us following any drawing, design or specification supplied by the Customer;
 - 13.5.4 you alter or repair the product without our written consent; or
 - 13.5.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.
- 13.6 Except as provided in this clause 13, we shall have no liability to you in respect of a product's failure to comply with the warranty set out in clause 13.1. Failure to provide us with said notice and opportunity at clause 13.2 will release us from any and all obligations or liability of any kind.
- 13.7 These terms shall apply to any repaired or replacement products supplied by us under clause 13.2.

14. Price and payment

- 14.1 **Where to find the price for the product.** The price of the product (which includes VAT) will be the price indicated on the order pages when you placed your order. We take all reasonable care to ensure that the price of the product advised to you is correct. However please see clause 14.4 for what happens if we discover an error in the price of the product you order.
- 14.2 **We are VAT Registered.** The prices shown in any correspondence, quotation and/or invoice are exclusive of VAT which, where applicable, will be added to the final total of any bill/invoice.
- 14.3 **We will pass on changes in the rate of VAT.** If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.
- 14.4 **What happens if we got the price wrong.** It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's correct price at your order date is less than our stated price at your order date, we will charge the lower amount. If the product's correct price at your order date is higher than the price stated to you, we will contact you for your instructions before we accept your order. If we accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and require the return of any goods provided to you.
- 14.5 **When you must pay and how you must pay.** We accept payment by BACS, Direct Debit or cheque. The date a cheque is cleared/honoured is the date that payment

shall be considered as received. When you must pay depends on what product you are buying:

14.5.1 For **goods**, you must pay for the products before we dispatch them.

14.5.2 For **digital content**, you must pay for the products before you download them.

14.5.3 For **Services**, we will advise you with our initial quote how we require payment.

14.6 **Our right of set-off if you are a business customer.** If you are a business customer you must pay all amounts due to us under these terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

14.7 **We can charge interest if you pay late.** If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 5% a year above the base lending rate of Barclays Bank PLC from time to time. This 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. You must pay us interest together with any overdue amount.

14.8 **What to do if you think an invoice is wrong.** If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.

14.9 **We may use a recovery agent if you fail to pay an invoice.** Should an invoice go unpaid for three calendar months or more, we may at our own discretion invalidate any guarantee given to the Customer and pursue the debt with a licensed debt recovery agent. The Customer will be liable for all legal costs in respect of the recovery of any outstanding balance including compound interest.

14.10 **Where the Customer is a corporate body,** work is undertaken on the understanding that the directors will indemnify us for all fees charged to the Customer which for any reason are not paid by the Customer under the terms of this agreement.

15. **Our responsibility for loss or damage suffered by you if you are a business**

15.1 The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £250,000 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

15.2 Subject to clause 15.3, our total liability to you shall not exceed £2,000,000. The Supplier's total liability includes liability in contract, tort (including negligence),

breach of statutory duty, or otherwise, arising under or in connection with the Contract.

- 15.3 Nothing in these terms shall limit or exclude our liability for:
- 15.3.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
 - 15.3.2 fraud or fraudulent misrepresentation;
 - 15.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
 - 15.3.4 defective products under the Consumer Protection Act 1987; or
 - 15.3.5 any matter in respect of which it would be unlawful for us to exclude or restrict liability.
- 15.4 Except to the extent expressly stated in clause 13.1 all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.
- 15.5 Subject to clause 15.1:
- 15.5.1 we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract between us;
 - 15.5.2 we are not liable to you for data breaches from your business where you, during the course of your business, process and work with personal information and data; and
 - 15.5.3 our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the total sums paid by you to us for products under such contract.
 - 15.5.4 The following types of loss are wholly excluded:
 - (a) Loss of profits
 - (b) Loss of sales or business.
 - (c) Loss of agreements or contracts.
 - (d) Loss of anticipated savings.
 - (e) Loss of use or corruption of software, data or information.
 - (f) Loss of or damage to goodwill.
 - (g) Indirect or consequential loss.

16. How we may use your personal information

16.1 **How we will use your personal information.** We will use the personal information you provide to us:

16.1.1 to supply the products to you;

16.1.2 to process your payment for the products; and

16.1.3 if you agreed to this during the order process, to give you information about similar products that we provide, but you may stop receiving this at any time by contacting us.

16.2 **We may pass your personal information to credit reference agencies.** Where we extend credit to you for the products we may pass your personal information to credit reference agencies and they may keep a record of any search that they do.

16.3 **We will only give your personal information to third parties where the law either requires or allows us to do so.** We shall comply with all applicable requirements of the data protection legislation.

16.4 **During the course of service we may collect information from you, some of which may be of a confidential nature.** This may include names, addresses and bank details as appear on your systems. Any information will be securely disposed of (deleted) within 10 days of the contracted task being completed. The information provided by the Customer to us will be used solely for the purpose of fulfilling our instructions from the Customer. In the event that information has to be provided to a third party, a written request will be made from us to the Customer for permission to disclose any sensitive information.

16.5 The parties acknowledge that for the purposes of the Data Protection Legislation, you are the data controller and we are the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

For the purpose of these Conditions Data Protection Legislation shall mean “**up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.**”

16.6 We shall, in relation to any Personal Data processed in connection with the performance by us of the Products:

16.6.1 process that Personal Data only on the written instructions of you unless we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us to process Personal Data (Applicable Data Processing Laws). Where we are relying on laws of a member of the European Union or European Union law as the basis for

processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit us from so notifying you;

- 16.6.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by you, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 16.6.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 16.6.4 only transfer Personal Data outside of the European Economic Area when the following conditions are fulfilled:
 - 16.6.5 you or we have provided appropriate safeguards in relation to the transfer;
 - 16.6.6 the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
 - 16.6.7 we comply with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 16.6.8 we comply with reasonable instructions notified to it in advance by you with respect to the processing of the Personal Data;
 - 16.6.9 notify you without undue delay on becoming aware of a Personal Data breach;
 - 16.6.10 at the written direction of you, delete or return Personal Data and copies thereof to you on termination of the agreement unless required by Applicable Data Processing Law to store the Personal Data; and
 - 16.6.11 maintain complete and accurate records and information to demonstrate its compliance with this clause.

- 16.7 **At the end of our contract we only hold onto copies of your information and data for 10 days.** You need to tell us if you notice anything is missing from the product within that period. We will not be responsible for any loss you suffer as a result of missing information after that date.
- 16.8 **Any personal, privileged or sensitive information obtained will not be used in connection with any act other than the contracted task** unless requested by the Customer in writing or by our request in writing to the Customer and upon a receipt from the Customer that the same may be permitted.
- 16.9 **Cookies may be utilised on our website.** Cookies are small files which many websites transfer to your hard disk. They can inform the website what pages you visit and your preferences, which enable websites to provide you with a more personalised service. You can set your browser to refuse cookies or to warn you before accepting them. At any given point, we may or may not be using cookies, but the site is accessible even if your cookies are turned off.
- 16.10 **All materials contained in our literature and media (including our website) are the copyright of us or are reproduced with permission from other copyright owners.** All rights are reserved. The materials contained in our literature or media may be retrieved and downloaded solely for personal use. No materials may otherwise be copied, modified, published, broadcasted or otherwise distributed without the prior written permission of us. Any articles published are the opinions of the author and do not represent the view of us.
- 17. Your responsibility**
- 17.1 **It is your responsibility and the responsibility of your staff and employees to reset all passwords and security words if you supply them to us.**
- 17.2 **You are responsible and shall be liable to us for the use of the products (including for any charges incurred) by the actions of any of your employees** and any other person who has been given access to use the products by you or gains access to use the products for fraudulent purposes (including where such use was not authorised by you). We strongly advise you install robust and effective security provisions to prevent unauthorised and/or fraudulent use. We are not be liable for any charges resulting from or in connection with fraudulent or unauthorised use of the products and you shall be responsible for and pay all charges, costs, fees and expenses resulting from or in connection with any fraudulent or unauthorised use of any products.
- 17.3 **You are responsible for ensuring that any backups we make of your systems include all files.** We are not responsible and accept no liability should you fail to provide us with files that should have been backed up and as a result of this are lost.
- 17.4 **We expect you to use our products in an acceptable way.** Please see our Acceptable Use Policy for information about what we might believe is not acceptable use.

18. Other important terms

- 18.1 **Links, referrals and suggestions are for information purposes only.** They are provided by us in good faith and for information purposes or under personal recommendation by a Technician. We take no responsibility for the materials contained in any website linked to our own website, nor the actions of any third party recommended by us or one of our Technicians.
- 18.2 **We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation. This may include outsourcing. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.
- 18.3 **You need our consent to transfer your rights to someone else (except that you can always transfer our guarantee).** You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing. We may not agree if we believe the transferee is of a lesser financial standing than yourselves or for other reasonable opinion. However, if you are a consumer you may transfer our guarantee to a person who has acquired the product or, where the product is services, any item or property in respect of which we have provided the services. We may require the person to whom the guarantee is transferred to provide reasonable evidence that they are now the owner of the relevant item or property.
- 18.4 **Nobody else has any rights under this contract (except someone you pass your guarantee on to).** This contract is between you and us. No other person shall have any rights to enforce any of its terms, except as explained in clause 18.3 in respect of our guarantee. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.
- 18.5 **If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 18.6 **Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.
- 18.7 **Which laws apply to this contract and where you may bring legal proceedings if you are a consumer.** These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or

the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

- 18.8 **Which laws apply to this contract and where you may bring legal proceedings if you are a business.** If you are a business, any dispute or claim arising out of or in connection with a contract between us or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.

These Terms and Conditions are written in conjunction with the following policies:

Privacy Notice

Data Protection Policy

Acceptable Use Policy

Fault Handling Policy

Fair Usage Policy

Code of Practice for Sales and Marketing of Fixed Line Telephone Services (including complaints procedure)

To read these policies, please go to our website www.heliocentrix.co.uk/policies.

These terms and conditions may be subject to change.