



TERMS AND CONDITIONS  
OF INTERNATIONAL  
SALES

## MARSS Group Terms and Conditions of International Sales

1. CONTRACT. A. Any reference in these Terms and Conditions to a law or statute or a provision of a law or statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended. In these Terms and Conditions words in the singular include the plural and vice versa and reference to any gender includes all genders. Reference to a person includes any individual, firm, partnership, organisation, institution, trust or agency, corporate body and unincorporated association or body. Where the words "include(s)", "including" or "in particular" are used in these Terms and Conditions, they are deemed to have the words "(without limitation)" following them and shall not limit the generality of any preceding words. Reference to a "party" or the "parties" refer to the parties to the Contract. Reference to "writing", "written" or derivatives includes email unless otherwise specifically stated. The headings in these Term and Conditions are for convenience only and do not affect their interpretation. Where this Agreement refers to an English legal term and that reference is being considered in the context of an event which has occurred or may occur outside England, the term should be interpreted to include what most nearly approximates the English legal term in the relevant country.

B. The "Contract" is the legally binding agreement for the Client's purchase of the goods and services ("Goods" and "Services"). These Terms and Conditions, and the order as accepted in writing by MARSS together comprise the Contract. Conflicts between and among the terms and conditions of those documents shall be resolved according to the foregoing order of precedence.

C. All quotations are given and all orders are accepted on these Terms and Conditions, which supersede any other terms appearing in any of MARSS's literature or elsewhere and which override and exclude any other terms (including any terms stipulated, or purported to be incorporated or referred to by the Client) whether in any of the Client's purchase order, tender or other documentation, or in any negotiations or any course of dealing established between the parties, or otherwise. The signing by MARSS of any of the Client's documentation will not constitute or imply any acceptance of the same or modification or disapplication of these Terms and Conditions. The Contract states the parties' entire agreement, superseding prior discussions, correspondence, negotiations and proposals and any course of dealing established between the parties. Save as set out in these Terms and Conditions or the Quotation, no variation of the Contract shall be effective unless it is in writing and signed by each of the parties.

2. ACCEPTANCE OF CONTRACT. MARSS's Quotation (the "**Quotation**"), unless it expressly states otherwise, remains valid for thirty (30) days from the date of the Quotation, or until MARSS withdraws the Quotation, whichever is earlier. Acceptance of the Quotation shall be made by Client submitting its purchase order or otherwise accepting the Quotation in writing. Acceptance by the Client of a Quotation before the Quotation expires shall be deemed an order by Client. Any order by the Client to MARSS will be an offer to purchase the Goods and Services. No Contract will be concluded between the parties and no order shall be binding or create any commitment upon MARSS until MARSS's authorised representative has issued a written acceptance of order to the Client. Each order which is so accepted shall together with these Terms and Conditions constitute an individual Contract between MARSS and the Client.

3. CHANGES. A. The Client, in writing, may request: (1) changes to drawings or specifications; (2) reasonable changes to the delivery schedule; (3) to alter the method of shipment or packing; and, (4) to change the place of delivery. No request for change shall be binding upon MARSS unless and until MARSS's authorised representative issues specific written agreement to the change. If any change causes an increase or decrease in the cost of or timing required to provide the Goods or Services, or affects the warranty or any other terms of the Contract, MARSS shall notify the Client after receipt of the Client's written change notice. Change request made other than in writing shall not be considered by MARSS. If the parties agree the changes to price, delivery and other terms to reflect the Client's requested change the Contract shall be modified in writing. If the parties cannot reach agreement MARSS will not be obligated to accept the proposed change and the Contract shall remain unmodified.

In the event that information or data provided by the Client, and which MARSS has relied on to execute its scope of work, change and result in an increase in cost and/or time of MARSS performing the work under the Contract, MARSS shall be entitled to an adjustment to the Purchase Price and/or schedule.

B. In the event that a MARSS supplier fails (for whatever reason) to obtain any required valid export licence and relevant consents for the export and delivery to the Client of all or any part of the Goods, MARSS may (at its sole discretion) by written notice to the Client either: (i) substitute the relevant Goods (or part thereof) with the most similar but non licence controlled product from MARSS's current product offering and the Contract shall be amended accordingly (including the readjustment of the Purchase Price to take account of the change in Goods); or (ii) cancel the Contract (or part thereof) with immediate effect by notice to the Client without penalty or liability and MARSS

shall be entitled to retain (or if applicable, the Client shall promptly pay) a cancellation fee in the amount of 20% of the Purchase Price.

C. Should changes in any applicable laws, rules and regulations made after the signature of the Contract, result in an increase in cost and/or time of MARSS performing the work under the Contract, MARSS shall be entitled to an adjustment to the Purchase Price and/or schedule.

4. PAYMENT AND PRICE. A. The price for the Goods and fees for the Services shall be as set out in the Contract ("Purchase Price") MARSS may issue its invoice for the Purchase Price following order acceptance by MARSS. Unless otherwise specifically stated in the Contract (including in Appendix A of the Quotation) the Purchase Price for all Goods and Services shall be due and payable in full in advance of delivery of the Goods (pursuant to clause 7) or supply of Services (as applicable), or if earlier within thirty (30) days of order acceptance by MARSS. MARSS may issue its invoice for any expenses, costs of consumables, additional equipment and/or cabling and handling fees and any other fees and delay payments following confirmation by MARSS of its agreement to provide such additional goods and/or services, or re-scheduling of existing services (as applicable). Such fees and charges shall be due and payable in full in advance of delivery of the Goods (pursuant to clause 7) or supply of Services (as applicable), or if earlier within fourteen (14) days of the date of the invoice (or such other period of time stated in the relevant invoice). MARSS shall have no obligation to deliver, and shall have no liability in relation to a failure to delivery, unless payment has been received in accordance with the terms of the Contract.

B. Payment shall be made by transfer in cleared funds to such bank account of MARSS as may be notified by MARSS to the Client. MARSS may at its discretion accept payment by letter of credit subject to MARSS written approval of the form, amount, issuing and advising/confirming bank. MARSS, may, at its discretion and subject to approved credit, allow other payment terms. Any such terms must be approved in writing by MARSS. Any unpaid amounts under the Contract (whether in respect of the Purchase Price or otherwise) shall automatically become due for payment immediately on the occurrence of an Insolvency Event (as defined in 6. C). Unless otherwise specified in the Contract the Purchase Price is stated and shall be payable in Euro, and any expenses, costs of consumables, additional equipment and/or cabling or handling fees or other fees shall be in such currency as stated by MARSS in the relevant invoice. Unless expressly stated otherwise in writing by MARSS, the Purchase Price and all other amounts due under the Contract are exclusive of all charges and expenses connected to carriage of the Goods and supply of Services to Client including freight and insurance, and all taxes, including VAT or any other sales or similar tax, taxes on production, transportation or use, withholding or other tax (except any tax on net profits to which MARSS may be subject) and all customs, handling, transport, import and/or export duties of any kind that either party is required to pay with respect to the supply of Goods and Services, but includes packing costs. Client shall pay all invoices in full without deduction or set-off. If any amount due under the Contract is subject to withholding tax or any other tax or deduction which has the effect of reducing the amount which MARSS would have been entitled to receive from Client or to retain under the Contract but for such tax or deduction, Client will, promptly upon written demand by MARSS's pay to MARSS such additional sum as is required to make up the shortfall in full.

C. Without prejudice to any other right or remedy that MARSS may have: (i) if the Client does not pay any sum to MARSS on the due dates for its payment the Client shall pay interest to MARSS on overdue amounts at a rate of 1% of the unpaid balance per month (accruing daily and compounded monthly) until payment is received in full; and (ii) MARSS may suspend, cancel or reschedule delivery of Goods and/or Services if the Client is in default of payments or any other material term of the Contract.

5. ACCEPTANCE AND INSPECTION. A. Final Factory Acceptance tests. If specified in the Contract, MARSS shall provide the Client at least seven (7) days' notice of MARSS's final factory acceptance testing, to enable the Client to attend such tests. The Client's attendance at MARSS's facility shall be limited to standard final factory acceptance tests and shall be at the Client's expense. Whilst on site the Client shall at all times comply with MARSS's site rules including regarding safety and security. Irrespective of whether the Client attends such acceptance testing, the Client shall have accepted the Goods irrevocably when MARSS certifies that the Goods have passed MARSS's standard final factory acceptance tests. If tests are made by the Client to demonstrate the ability of the Goods to operate as specified, the Client is to make all preparations and incur all expenses incidental to such tests. MARSS will have the right of representation at such tests at its expense, and the right to technically direct the operation of the Goods during such tests, including requiring a preliminary run for adjustments. Any failure to materially comply with the specification and/or material defects in material or workmanship shall be repaired under, and subject to the terms of, the warranty in Clause 8.

B. Site Acceptance Tests. The Client shall provide MARSS with access to the Client's premises, equipment, network and systems as required to enable MARSS to undertake the Site Acceptance Tests in accordance with the Contract. The Client shall ensure that a fully authorised representative of the Client is present at all Site Acceptance Tests. Absence of a Client representative at a Site Acceptance Test shall consist in the deemed acceptance of such test.

C. In the event that the Goods and/or Services fail the Site Acceptance Tests due to a fault:

- (i) with the Client's premises, equipment, network and/or systems, the Client shall promptly at its own cost remedy such fault and notify MARSS when such remedial action has been completed;
- (ii) with the Goods and/or Services outside the scope of the warranty at clause 8, MARSS may at its discretion and at the Client's costs remedy the fault or require the Client to promptly at its own cost remedy such fault and notify MARSS when such remedial action has been completed;

following which MARSS shall provide the Client with rescheduled dates for redoing the Site Acceptance Tests such additional Site Acceptance Test shall (unless set out otherwise in the Order) be at the Client's cost at MARSS's standard day rates. Travel and expenses will be re-charged at cost plus 15% unless paid directly by the Client. Any additional cabling and consumables required on site and supplied locally will be charged at cost (including handling) plus 15%. The Client shall in addition pay all applicable taxes, levies and duties, in accordance with Clause 4 B.

Any defect or failure of the Goods which falls within the scope of the warranty in clause 8 B(ii) shall be dealt with in accordance with clause 8 (including any limitations and exclusions), and MARSS shall provide the Client with rescheduled dates for redoing the Site Acceptance Tests.

The Client shall have accepted the Goods and Services irrevocably when MARSS certifies that the Goods and Services have passed MARSS's Site Acceptance Tests. If MARSS, Site Acceptance Testing is not completed within one hundred and eighty (180) days of the Site Validation Testing, except where such failure is solely as a result of failure by MARSS, the Site Acceptance Test shall be deemed completed and Services shall be deemed accepted.

6. TITLE AND RISK OF LOSS. A. Full risk of loss (including transportation delays and losses) passes to the Client upon delivery (pursuant to Clause 7), regardless of whether title has passed to the Client, transport is arranged or supervised by MARSS, or start-up is carried out under the direction or supervision of MARSS. Loss or destruction of the Goods or injury or damage to the Goods that occurs while the risk of such loss or damage is borne by the Client does not relieve the Client of its obligation to pay MARSS for the Goods or Services.

B. Title to the Goods will only pass to Client once MARSS has received payment in full and cleared funds for the total Purchase Price and any other expenses or other monies payable to MARSS by the Client under the Contract.

C. Until title to the Goods has passed to Client, Client will, at its cost: (i) hold the Goods as bailee for MARSS; (ii) store the Goods separately from all other material in Client's possession and not incorporate any of the Goods into any other goods or products; (iii) take all reasonable care of the Goods and keep them in the condition in which they were delivered; (iv) insure the Goods, effective from the time at which risk passes to the Client under Clause 6.A: (a) with a reputable insurer (b) against all risks (c) for an amount at least equal to their Purchase Price, and (d) noting MARSS's interest on the policy; (v) ensure that the Goods are clearly identifiable as belonging to MARSS; (vi) not remove or alter any mark on or packaging of the Goods; (vii) not purport to sell, dispose of or transfer the Goods; (viii) inform MARSS as soon as possible if it ceases or threatens to cease to carry on its business or is or is likely to be unable to pay its debts or otherwise become insolvent, or makes or proposes to make an arrangement or composition with its creditors, or takes any step or suffers anything which, under the law of any jurisdiction, is analogous to any of the acts or events specified (each an "Insolvency Event"); (viii) on reasonable notice permit MARSS to inspect the Goods during Client's normal business hours and provide MARSS with such information concerning the Goods as MARSS may request from time to time. If, at any time before title to the Goods has passed to Client, any amount payable under the Contract is not paid on the due date for payment, or if MARSS reasonably believes that an Insolvency Event may occur in relation to the Client MARSS may, without prejudice to any other right or remedy of MARSS (including the right to recover the Purchase Price): (a) require Client at Client's expense to re-deliver the Goods to MARSS; or (b) enter any premises where the Goods are stored and repossess them.

7. DELIVERY AND DELAYS. A. Delivery of the Goods shall be as per the Quotation (or in the event that no delivery terms or location is specified, Ex. Works the manufacturer's factory (or as regards any Goods manufactured by MARSS MARSS's premises) where the relevant Goods are manufactured, (Incoterms 2010). The Goods may be delivered by instalments. MARSS shall endeavour to meet the delivery dates for the Goods and Services set out in the Contract, which are estimated based on conditions known at the time of Contract). Time of delivery is not of the essence. If MARSS fails to deliver the Goods and Services within a reasonable time, MARSS shall be liable to the Client for Liquidated Damages. The amount of such Liquidated Damages shall be zero. The parties confirm that these Liquidated Damages are a genuine pre-estimate of the loss and are the Client's sole remedy for delays. MARSS will notify Client in writing as soon as reasonably practicable on becoming aware that a delay in delivery or supply of the Goods or Services is likely. The Client shall undertake and complete in a timely manner all steps required of it in connection with testing, delivery and installation, commissioning and acceptance of the Goods and Services as

provided in the Contract and shall provide such facilities, access and resources and access as are specified in the Contract or which are otherwise reasonably required by MARSS for those purposes. Client acknowledges and agrees that delay payments may be payable to MARSS as provided in the Contract for any failure or delay by Client.

B. MARSS shall not be liable for any non-performance, loss, damage, or delay in delivery of the Goods or supply of the Services: due to: (a) Client's failure or delay to comply with its obligations under the Contract (including but not limited to the provision of any instructions, specifications, third party equipment, information, work boats, divers, environment or infrastructure requirements, or access to personnel, equipment or to the relevant site); (b) war, acts of terrorism, riots, fire, flood, epidemics or pandemics, strikes or other labour difficulty, governmental actions, including delivery requirements of a Government or other regulatory agency rated order, acts of God, acts of the Client or its customer, transportation delays, inability to obtain necessary labour, goods or materials from usual sources, or other causes beyond the reasonable control of MARSS.

8. LIMITED WARRANTY. A. Unless otherwise specifically stated in any individual product warranty terms formally set forth by MARSS to the Client in writing (and only then to the extent set out), the warranty terms applicable to the Goods and Services shall be limited to those set forth in this Clause 8. The Client agrees that MARSS is solely responsible to determine that any Goods are suitable for its needs and meet the Client's requirements. The Client is responsible for ensuring that the Goods and Services are compatible with any software, network or other systems or items not provided by MARSS to which they are linked.

B. MARSS warrants that:

(i) it shall perform the Services with reasonable skill and care in accordance with the Contract and shall ensure its personnel working on the Services are competent and suitable, including as to qualifications and experience, to perform the Services; and

(ii) the Goods will materially conform to the manufacturer's published Specifications and be free from defects in material and workmanship: (a) for 15 months from delivery of the Goods at manufacturer's factory (or as regards any Goods manufactured by MARSS MARSS's premises), or 12 months from Site Acceptance test whichever occurs first; or (b) in the case of repaired Goods or spare or replacement parts furnished by MARSS, for the period of Clause 8.B.(ii)(a) plus the repair time; (each the "**Warranty Period**").

C. MARSS, at its sole option, shall either repair the Goods that do not comply with Clause 8.B.(ii) or Clause 8 A., or furnish replacement equipment, or parts thereof, available from the appropriate MARSS service centre nearest to Client, or refund that part of the Purchase Price paid in respect of the defective Goods, provided that: (i) the Client reports any claimed defect in writing to MARSS immediately upon discovery and, in any event, within the relevant Warranty Period; (ii) Client gives MARSS a reasonable opportunity to examine the defective Goods (or parts thereof); (iii) and Client returns the defective Goods to MARSS at the authorised MARSS service centre or such other location notified to Client at Client's expense.

D. MARSS shall not be liable for any failure of the Goods (or parts thereof) to comply with Clause 8.B.(ii) or such other warranty referred to in Clause 8. A: (i) if the Goods (or parts thereof) have been tampered with, repaired, altered or modified in any manner by persons other than MARSS or MARSS's designee without MARSS's prior written approval; (ii) where such failure arises by reason of normal wear and tear, or (other than by MARSS) vandalism or other damage or negligence; (iii) the Client's failure to properly store, install, operate or maintain the Goods (or part thereof) in accordance with good industry practices and/or specific recommendations or instructions of MARSS or the manufacturer; (iv) to the extent caused by MARSS following any design, specification or requirement of Client in relation to the Goods; (v) where Client uses any of the Goods (or part thereof) after notifying MARSS that it does not comply with Clause 8.B.(ii) or such other warranty referred to in Clause 8 A.. Notwithstanding clause 8.A and 8.B and without prejudice to the foregoing or clause 8.E, MARSS does not warrant that the use of any software provided as part of the Goods will be uninterrupted or error-free and the Client accepts responsibility for the selection of the Software to achieve its intended results and acknowledges that the software has not been developed to meet the individual requirements of the Client. For the avoidance of doubt, MARSS has no obligation to maintain, support or update any software except as set out in this Contract save as agreed as part of an extended support agreement.

E. The repair or replacement of the Goods (or part thereof) or refund by MARSS under this Clause 8 and/or re-performance of the Services (as applicable) shall constitute MARSS's sole obligation and the Client's sole and exclusive remedy for all claims of defects in the Goods and Services. All warranty repairs must be performed at an authorized MARSS service centre using recommended replacement spare parts. The Client is responsible for the shipping and any other charges incurred in sending the Goods to the authorized service centre specified by MARSS, and MARSS will pay for the return of the Goods to the Client. Except as set out in this clause 8 AND CLAUSE 11 B. AND SUBJECT TO CLAUSE 12.A: MARSS MAKES NO WARRANTY, PROMISE, REPRESENTATION OR ASSURANCE

OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS OR SERVICES AND to the fullest extent permitted by law, ALL OTHER WARRANTIES, PROMISES, REPRESENTATIONS OR ASSURANCES, EXPRESS OR IMPLIED (including by common law, statute or otherwise or by custom or course of dealing), are excluded INCLUDING WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, EFFECTIVENESS, TITLE OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

9. CONFIDENTIALITY AND INTELLECTUAL PROPERTY. A. All information and ideas (in any form or medium) which MARSS has supplied or made available directly or indirectly whether orally, in writing, electronically, by observation, or by any other means, and whether before on or after the date of the Contract to the Client including all information relating to: (i) the Goods and/or Services; and/or (ii) the operations, processes, inventions, know-how, designs, trade secrets, ideas, concepts, techniques, specifications, discoveries, test data, research, analysis, software, computer programs, computer or electronic data disks or tapes, manuals, documents, records, files, file lay out, printouts, technical bulletins, drawings, diagrams, blueprints, sketches, models, prototypes, samples, flow charts, bid documents of MARSS; and/or (iii) the products, services, pricing, business and affairs of MARSS, its affiliates, clients and suppliers ("**Confidential Information**"), is proprietary to MARSS (or its affiliates, clients or suppliers as applicable) and disclosed to the Client in confidence for the sole purpose of assisting the Client in the selection and/or use of the Goods solely for the purpose for which it/they were supplied and then only in accordance with the terms of the Contract ("**Purpose**"). The Client shall not, without MARSS's prior written consent, disclose or make available such Confidential Information to any other person and then only for the Purpose. The Client shall not use any of such Confidential Information, except for the Purpose. All Confidential Information shall be returned to MARSS on demand, and, in any event, when no longer needed by the Client or if earlier on termination or expiry of the Contract for any reason. This confidentiality obligation shall cease to apply to such information to the extent that: (i) the Client can demonstrate it was within its legitimate possession in tangible form and free from any restriction as to use or disclosure prior to the time of disclosure by MARSS; (ii) such information was in the public domain prior to disclosure by MARSS or subsequently comes into the public domain other than as a result of breach of this clause 9. Without prejudice to MARSS's other rights and remedies, the Client agrees that any benefit or property derived by the Client from any unauthorised use of Confidential Information shall be the sole and exclusive property of MARSS.

B. IPR AND SOFTWARE LICENSE. 'Intellectual Property' means copyrights (including rights in software and computer programs), patents, trade marks, logos, service marks, business names (including internet domain names), design rights, database rights, rights in undisclosed or confidential information (such as know-how, trade secrets and inventions (whether patentable or not)) and all other intellectual property or similar proprietary rights of whatever nature (whether registered or not and including applications to register or rights to apply for registration) which may now or in the future subsist anywhere in the world.

C. Client agrees that MARSS (or MARSS's suppliers and/or licensors as the case may be) owns all rights, titles and interests in and to the Intellectual Property and other proprietary rights in: (i) the Goods (including any software and related documentation provided); and (ii) all Confidential Information ("**MARSS IPR**"). Client will not develop: (a) any products incorporating any MARSS IPR; nor (b) any improvements or applications related to the MARSS IPR. Client agrees not to apply for the registration of any MARSS IPR in any country or otherwise take any action inconsistent with MARSS's (or its suppliers' or licensors') rights in the MARSS IPR.

D. If MARSS provides software as part of or embedded within the Goods, that software is proprietary to MARSS (or MARSS's suppliers and/or licensors as the case may be). MARSS grants the Client a non-exclusive, perpetual license to use the software (and any related documentation provided) only on and in conjunction with and for the purpose of using the Goods in the manner and for the purpose intended at the time of the sale and only in accordance with the terms of the Contract. Without prejudice to Clause 10., the Client shall not disassemble, decode, or translate the software, or copy or modify the software except for archival or back-up purposes as necessary for permitted use as specified in this Clause 9.D. The Client will maintain all proprietary marks on such software and any related documentation. The Client may transfer this licence if (and only when) transferring the Goods subject to the software remaining part of or embedded within the Goods and the transferee complying with and being bound by the restrictions of this licence. Upon such transfer, the Client's licence terminates and the Client shall destroy all copies of the software and related documentation in the Client's possession.

E. Except as specifically set out in the Contract, Client acknowledges and agrees that it shall not acquire by implication or otherwise any right or licence in or title to any MARSS IPR or any Intellectual Property of its suppliers or licensors or to any Confidential Information communicated by or acquired from MARSS and MARSS reserves (on its own account and on behalf of its licensors and suppliers as applicable) all rights in MARSS IPR.

10. NO REVERSE ENGINEERING. The Client shall not itself or cause or allow any other person to reverse engineer, decompile, deconstruct, disassemble, synthesize, or extract any element of the Goods and/or Services (or part thereof) and/or otherwise seek to discover any Confidential Information or MARSS IPR, nor request nor accept any



disclosure of Confidential Information or provision of MARSS IPR from a third party who reverse engineers, decompiles, deconstructs, disassembles, synthesizes, or extracts the Goods and/or Services (or any part or element thereof) and/or otherwise discovers any Confidential Information or MARSS IPR, nor otherwise attempt to derive Confidential Information contained or embodied in MARSS's products. In the event that the Client breaches any obligations set forth in the preceding sentence, or otherwise misappropriates or makes unauthorised use of any Confidential Information, any and all Intellectual Property resulting or deriving from the breach(es) shall be for MARSS's benefit, and MARSS shall be the sole and exclusive owner of that Intellectual Property. The Client shall (at its own cost) promptly following a request by MARSS do and execute, and procure the doing and execution, of all such further acts and things as required to give full effect to this Clause 10 including executing an assignment, in a form approved by MARSS, for any and all Intellectual Property arising from a breach of this Clause 10. The aforementioned provisions shall in no way be considered to abridge, supplant or otherwise limit other legal or equitable remedies available to MARSS for such breaches, and MARSS may seek redress for such breaches to the fullest extent allowable by law. The obligations in this Clause 10 shall survive termination or expiry of the Contract (however caused).

11. IPR INDEMNITY. A. If the Goods are to be prepared or manufactured according to the Client's specifications and/or MARSS is required to integrate into the Goods or other system third party equipment, software or materials provided by the Client, the Client shall indemnify MARSS, its employees, directors, officers and its suppliers, contractors, licensees and affiliates and hold it and them harmless from all claims, proceedings, loss, damages, injury, liability, costs and expenses (including reasonable legal and other professional fees and expenses) arising from or in connection with any claim or allegation that the use, possession, manufacture, supply or exploitation of such Goods and/or third party equipment software or materials infringes the Intellectual Property of a third party.

B. MARSS agrees at its expense to defend any suit alleging direct infringement instituted against the Client (but not subsidiaries or customers of the Client) and indemnify the Client against any award of damages and costs made against the Client (by a court of last resort) to the extent that the award is a final determination that the Goods as and when furnished by MARSS to the Client directly infringed any U.K. Patent, trademark or copyright of a third party. Indemnification of costs under this provision shall extend only to actual costs assessed. The indemnity obligations in this Clause 11.B. are expressly conditioned upon: (a) the Client providing MARSS with written notice promptly, and in any event no later than seven (7) days' from the Client's receipt of notice of such claim; (b) MARSS shall have the option of having sole control of the defence against such claims and the negotiation for their settlement; (c) the Client cooperating with MARSS in the defence and negotiations relating to the claims; and, (d) if MARSS determines that the Goods are or are likely to be the subject of direct infringement claims, MARSS shall have the right at MARSS sole discretion to obtain the right for the Client to keep using the Goods, or obtain substitute goods, or modify the Goods to be non-infringing, or refund the Purchase Price of the Goods in question. The indemnity obligations stated in this Clause 11.B. shall not apply to any claims arising or resulting from: (a) Goods made or modified to Client's specifications and/or any third party equipment provided by Client and integrated into the Goods by MARSS; (b) the Client or any other person (other than MARSS) altering the Goods; and/or use of the Goods in combination with any other goods, products, software, or materials, if the infringement would not have occurred but for such combination]; (c) use of the Goods in a manner not intended at the time of the sale and/or other than in accordance with the terms of the Contract; or, (d) the Client's failure to use a modified or substitute good provided by MARSS pursuant to this section. Subject to Clause 12.A. and without prejudice to Clauses 12.B. and 12.C, MARSS's defence and indemnification obligations in this Clause 11.B state the entire liability and obligation of MARSS, and is the Client's sole and exclusive remedy with respect to any actual or alleged infringement of any Intellectual Property by the use, operation, possession, sale or exploitation of the Goods or Services.

12. LIMITATION OF LIABILITY. A. Nothing in the Contract shall exclude or limit either party's liability in respect of:

(i) fraud or fraudulent misrepresentation; and

(ii) any liability which may not otherwise be limited or excluded under applicable law.

B. Subject to Clause 12.A., MARSS shall in no event be liable for any: (i) loss of profits, business, revenue, goodwill, data or anticipated savings (whether direct or indirect); and/or (ii) consequential, incidental, indirect, special or punitive damages of any kind including any loss or damage of a type described in Clause 12.B.(i) that may be regarded as special, indirect, incidental or consequential; arising out of or in connection with the Contract or the Goods or Services, including claims based upon work stoppage, impairment of other equipment, environmental damage, loss by reason of shutdown or non-operation, increased expenses of operation, cost of purchase of replacement equipment, or claims of the Client or customers of the Client or any other person for service interruption, whether arising in contract (including under indemnity), tort (including negligence and strict liability), for breach of statutory duty or misrepresentation or otherwise.

C. Subject to Clause 12.A. and without prejudice to Clauses 8 and 12.B., MARSS's maximum aggregate liability in respect of all claims and liabilities arising under or in connection with the Contract or the Goods or Services, whether arising in contract (including under indemnity), tort (including negligence) for breach of statutory duty or misrepresentation or otherwise, shall in all instances not exceed 20% of the Purchase Price for the Goods or Services under that Contract. No action arising out of or in connection with the Contract or any of the Goods or Services provided hereunder may be brought by Client more than one (1) year after the cause of action has accrued.

13. APPLICABLE LAW. The 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 the laws of England. The parties hereby irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

14. COMPLIANCE WITH LAWS. A. Client shall at all times comply with (and ensure that its employees, personnel, directors, officers, agents and contractors comply with all applicable laws, enactments, orders, and regulations, guidance, directions, codes of practice and conduct issued by any governmental, regulatory or other authority and all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption.

B. Without prejudice to the generality of Clause 14.A, the Client acknowledges and agrees that the Goods may be subject to specific export laws and regulations (including but not limited to U.S. and UK laws, regulations and licensing requirements). Client shall not export, re-export, or transfer the Goods or Confidential Information or MARSS IP received from MARSS without first obtaining the appropriate Government licences, consents and/or approvals ("**Export Licences**"). MARSS will provide reasonable cooperation to Client to obtain any necessary Export Licences, but obtaining such Export Licences and complying with all applicable export laws shall be the exclusive responsibility of Client. MARSS makes no warranty, promise, representation or assurance of any kind in relation to the Goods regarding requirement or the issuance of Export Licences or compliance with applicable export laws, and MARSS shall have no liability in respect of the same or otherwise in relation to or arising from the application for such licences (but this shall not limit or exclude any liability for fraudulent misrepresentation or fraud). Even though export licenses are not required for 9Hz cameras, the Client acknowledges and agrees that MARSS and/or the product manufacturer may still have obligations to comply with US Export regulations, and that such cameras may not be used in the design, development, production or use of nuclear, chemical or biological weapons or missiles and may not be sold, transferred or exported to Cuba, Iran, North Korea, Sudan or Syria or such other countries as notified to the Client from time to time.

15. TERMINATION. A. Without prejudice to any other rights or remedies, MARSS may immediately terminate the Contract or any part thereof effective as of the date of written notice to the Client in the event that:

- (i) the Client commits any material breach of any of the provisions of the Contract and, in the case of a breach capable of remedy, fails to remedy it within thirty (30) days after receipt of a written notice of the breach;
- (ii) the Client fails to pay an invoice when due and fails to pay that invoice within fourteen (14) days after receipt of notice of default;
- (iii) the Client suffers an Insolvency Event;  
On of the event listed in Clause 7.B.b lasts for a continuous period of time exceeding 90 days.

B. The Client may not cancel or terminate the Contract without MARSS's written consent, which if given will be deemed to be on the express condition that the Client will indemnify MARSS against all loss, damage, liabilities claims and actions that may be suffered or incurred by MARSS arising out of such cancellation and will, in addition, be subject to payment by the Client of all or part of the Purchase Price of the Goods and Services and other fees and expenses as set out in the Contract (or as otherwise agreed by MARSS in writing).

C. Termination or expiry of the Contract (or part thereof) shall not affect the accrued rights, remedies, or liabilities of the parties existing at termination or expiry. The following Clauses shall continue to apply after the termination or expiry of the Contract for any reason: clauses 1, 3.B(ii), 4, 6, 8.D and E, 9 to 22 (inclusive).

16. ASSIGNMENT AND NOVATION. Neither party shall assign or novate its rights or delegate its duties under the Contract without the prior written consent of the other (such consent not to be unreasonably withheld or delayed). MARSS may subcontract the performance of any of its obligations under the Contract but shall remain liable for performance.



17. TRADEMARKS. The Client agrees that it will not use any registered or unregistered trademark (including logos) and trade names of MARSS or its affiliates or relating to the products or services provided by any of them (or any similar trade marks, logos or trade names) without MARSS's prior express written permission.

18. SEVERANCE. Each of the provisions of the Contract is severable and if at any time one or more of those provisions is or becomes invalid, illegal or unenforceable, that provision will be deemed to be deleted and the validity, legality and severability of the remaining provisions will not be affected.

19. NOTICES. Any notice or other document to be given under the Contract shall be in English and in writing and shall be properly given if sent by: a) express or air mail or other fast postal service, or by hand or by reputable courier service, or electronic mail (except that notice of termination of the Contract may not be given by email) to the address[ or email address] set out [in the Quotation] or such alternative [email address or] postal address as the recipient party may from time to time notify to the other. Any notice or other document served on an address in the same country by mail/post shall be deemed to have been served three (3) days following the date of dispatch, or five (5) days following the date of dispatch if by mail/post from a country other than the same country of the recipient. A notice served by hand or by courier shall be duly served upon receipt by the addressee and where the notice or other document is given by electronic mail, service will be deemed to have taken place simultaneously with the delivery or transmission.

20. RELATIONSHIP OF THE PARTIES. The parties are independent contractors, and nothing in the Contract shall constitute the creation, establishment or relationship of partnership, joint venture or employer and employee between the parties nor shall any agency relationship exist between the parties.

21. ENTIRE AGREEMENT. The Contract is the entire agreement between the parties and supersedes and save as otherwise specified in the Contract replaces all previous agreements, arrangements and understandings between them (written or oral) relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on any representation, warranty, promise or other assurance that is not set out in the Contract but this shall not limit or exclude any liability for fraudulent misrepresentation or fraud.

22. THIRD PARTY RIGHTS. No person other than a party to the Contract shall have any rights to enforce it.

23. TRAINING: MARSS will provide training services to the Client as described in the Quotation.