



General Terms and Conditions for Services

of Aqua Ray UK (as defined below) (hereinafter: "General Terms and Conditions")

Clause 1 Definitions

1.1 The terms used in these General Terms and Conditions shall be defined as follows:

Agreement: The Agreement entered into by Aqua Ray UK and the Customer, the subject matter of which is the provision of the Services by Aqua Ray UK to the Customer as reflected in the Services Form;

Business Day(s): Opening days in the United Kingdom, excluding Bank holidays and week-ends (Saturdays and Sundays);

Business Hours: Hours 09:00 – 18:00 every Business Day(s);

Customer: The counter party of Aqua Ray UK in the Agreement;

Customer Equipment: All equipment owned, leased or held by or on behalf of the Customer, which is placed, stored and/or installed in the Customer Space;

Customer Space: The space at the Premises reserved for and provided to the Customer;

Commencement Date: The date the Agreement takes effect, as stipulated in the Services Form;

Electronic Message: A set of segments, prepared in a computer readable format and capable of being automatically and unambiguously processed;

Aqua Ray UK: The legal entity that is stated on the Services Form and that is a part of the Aqua Ray Group (as a subsidiary of Aqua Ray SARL, registered in France);

Aqua Ray UK Facilities: Any equipment, hardware, and/or cabling, including but not limited to telecommunications networks, cables, devices and racks installed and operated by Aqua Ray UK and/or providers of telecommunication services, located in any part of the Premises, to provide the Services;

Initial Agreement Period: The minimum period the Agreement has been concluded for, as set forth in the Services Form;

Notice: A notice, in writing or by Electronic Message, to be given regarding the Agreement by either Party to the other;

Party (Parties): Aqua Ray UK and/or the Customer;

Premises: The site, owned or leased by Aqua Ray UK, specified in the Services Form, in which the Services are provided;

Service(s): The services, reflected in the Services Form, that Aqua Ray UK has agreed to provide to the Customer;

Services Form: The form, which states the specific arrangements of the Agreement between the Parties and the Services to be provided;

Service Level Agreement: The General Terms and Conditions concerning the service levels against which Aqua Ray UK shall provide the Services, annexed to this document;

1.2 The headings to the Clauses of these General Terms and Conditions are for ease of reference only and shall not affect the interpretation or construction thereof.

1.3 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or reenacted.

1.4 Use of the singular includes the plural and vice versa; use of any gender includes the other genders; any reference to persons includes natural persons and legal persons, including, but not limited to firms, partnerships, companies, corporations, associations, organizations, governments, states, foundations and trusts (in each case whether or not having separate legal personality).

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

1.6 Any reference to a certain document is a reference to that other document as amended, varied, supplemented, or renewed from time to time.

Clause 2

Applicability

These General Terms and Conditions apply to the Agreement as stated in the Services Form, with the exclusion of the applicability of any General Terms and Conditions of the Customer.

Clause 3

Fees, Payment Condition, Price increase

3.1 In consideration of the provision of the Services by Aqua Ray UK, the Customer shall pay to Aqua Ray UK the fees for the Services as specified on the Services Form. Recurring fees due for payment to Aqua Ray UK shall be invoiced in advance at the beginning of each invoice period as indicated on the Service Form.

All non-recurring fees, including, but not limited to the fees for setup and installation, shall be invoiced in advance. Fees for Services that are calculated on the basis of usage or an hourly rate are invoiced in arrears.

3.2 The Customer shall bear all costs for any changes that it requests Aqua Ray UK to make to the Customer Space or the Aqua Ray UK Facilities.

3.3 Payment shall be made, in the currency as indicated on the Services Form, to Aqua Ray UK's bank account mentioned on the invoice, within 30 (thirty) days of the invoice date ("Due Date"). The receipt of the payments by Aqua Ray UK and not its dispatch shall be decisive for ascertaining payment in time.

3.4 Aqua Ray UK has the right to increase the fees on an annual basis with the higher of (i) 3% or (ii) the percentage increase from the preceding 12 months in the official national price index which is the "all item Retail Price Index" as published by the Office for National Statistics in the United Kingdom, or, if this index ceases to be published, any other retail price index published in substitution. The fee adjustment shall take effect from the beginning of each new calendar year. By charging fees that are not increased on the basis of this Clause 3.4 or receiving payments for such fees Aqua Ray UK does not, either explicitly or tacitly, waive its right to the difference between the charged fees and the fees as they would have been if Aqua Ray UK would have increased on the basis of this Clause. Aqua Ray UK is entitled to charge increased prices with retrospective effect within 1 year from the beginning of the year in which the increased price would have been charged on the basis of this Clause 3.4.

3.5 Aqua Ray UK has the right to charge an additional price increase for any of the Services provided under the Agreement, in which case Aqua Ray UK shall inform the Customer by Notice to the Customer, stating (i) the intention to increase the price, and (ii) the effective date of such price increase. The Customer has the right to object to the price increase of this paragraph, by Notice to Aqua Ray UK within 30 days upon receipt of the Notice of such increase. Upon expiry of the thirty (30) days period and in the event that the Customer:

(a) has objected against the price increase, the Agreement shall terminate after 60 days from the date of the Notice of the objection, without the Parties being required to provide termination Notice thereof and in accordance with the provisions in Clause 13. In the period between the Notice of the price increase and the date of termination of the Agreement, the price, prior to the Notice of the increase will continue to apply.

(b) has not objected against the price increase, this shall be considered as a tacit acceptance of the price increase and the Customer shall be bound by the increased price as of the effective date as set forth in the Notice of the price increase.

3.6 If the Customer fails to pay any due amount by the Due Date, it will be in default without prior Notice to that effect being required. In that event, all amounts payable by the Customer under the Agreement shall become immediately due and payable and, notwithstanding any other right Aqua Ray UK may have under the applicable law, Aqua Ray UK shall be entitled to (1) charge daily interest on all due and unpaid amounts on the rate of 12 % on top of the base rate of Bank of England as current from time to time and (2) compensation in respect of all costs connected with the recovery of its claim (including all legal fees and expenses and VAT).

3.7 The fees, due by the Customer to Aqua Ray UK pursuant to the Agreement shall be exclusive of any value added tax, which amounts will be invoiced by Aqua Ray UK and paid additionally by the Customer, along with the fees due.

3.8 Any costs, charges, expenses, taxes and stamp duties (to the extent applicable) levied by a governmental organization in connection with the execution and/or implementation of the Agreement shall be borne by the Customer.

Clause 4 Financial Conditions

4.1 The Customer waives all rights to suspend any of its payment obligations for whatever reason, except for its rights to suspend with respect to claims that are undisputed between the parties or that are upheld by a final court ruling.

4.2 The Customer shall make all payments due under the Agreement in full and has no right to deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless

- (a) the Customer has a valid court order requiring payment by Aqua Ray UK of an amount equal to such deduction to the Customer; or
- (b) to the extent the deduction concerns undisputed claims or claims upheld by a final court ruling; or
- (c) the Customer is obliged by law to make payments subject to deduction or withholding, in which case the sum payable shall be increased to the extent necessary to ensure that after the required deduction and withholding Aqua Ray UK receives a net sum equal to the sum which Aqua Ray UK would have received if such deductions or withholding had not been required.

4.3 The Customer warrants that it is in good financial standing and that it shall be able to meet its financial obligations under the Agreement. The Customer, upon Aqua Ray UK's reasonable request, shall provide such proof of its financial standing, including information on its solvency and liquidity.

Clause 5 Maintenance and Support

5.1 The Customer acknowledges that Aqua Ray UK shall from time to time inspect the Premises and carry out maintenance, anywhere at the Premises (including, but not limited to the Customer Space) on the Aqua Ray UK Facilities, which includes changes necessitated by technical developments. Through undersigning the Agreement, the Customer agrees in advance to such inspections and maintenance.

5.2 If the Customer wishes to carry out maintenance activities with regard to the Customer Equipment, it shall always inform Aqua Ray UK hereof (whether carried out by Customer's personnel or third parties appointed by the Customer for such purposes) if

the activities may disable, interrupt or otherwise interfere with the Services provided by Aqua Ray UK. The Customer shall inform Aqua Ray UK of the date, start time and end time of the maintenance activities at least 10 days in advance. During the Customer's maintenance activities no warranty or guarantee with regard to the Services applies nor does the Service Level Agreement.

Clause 6 Liability

6.1 Without prejudice to the other provisions of this Clause, the liability of either Party for damage shall in any case be limited to an aggregate amount of series of related events, with a maximum amount of all events arising in a year, unless such damage results from willful intent or gross negligence.

6.2 Aqua Ray UK shall not be liable to the Customer for special, incidental, indirect, punitive or consequential damages, including but not limited to whether occasioned by the act, breach, omission, default or negligence of Aqua Ray UK, its employees and contractors and subcontractors, which shall include, without limitation loss of business, revenue, interest or profits, loss of use or data, loss of savings or anticipated savings, loss of investments, loss of goodwill, loss of reputation or cost of capital or loss of extra administrative cost, or any other financial damages, or damages suffered or claimed by third parties, whether or not foreseeable, arising out or in connection with the Agreement, whether brought to Aqua Ray UK in an action based on contract, statute, equity, or tort including negligence or other legal theory.

Clause 7 Force Majeure

7.1 In these General Terms and Conditions, force majeure (hereinafter referred to as "Force Majeure") means any cause preventing either Party from performing any or all of its obligations which arises from, or is attributable to acts, events, omissions or accidents beyond the reasonable control of the Party so prevented, including, without limitation, strikes, lockouts or other industrial disputes (whether or not involving the workforce of Parties or any other party), acts of God, embargo, war, terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm or to the after effects of any of the foregoing. If any such delay occurs, then (unless the cause thereof shall frustrate or render impossible or illegal the performance of the Agreement which shall otherwise discharge the same) the period for the Party to perform its obligations under the Agreement shall be extended by such period (not limited to the lengths of delay) as the Party may reasonably require to complete such performance.

7.2 The Party invoking this Clause shall give Notice forthwith to the other Party upon becoming aware of an occurrence of Force Majeure, such Notice to contain details of the circumstances giving rise to the occurrence and shall use reasonable endeavors to mitigate the effect of the Force Majeure.

7.3 If a default due to an occurrence of Force Majeure continues for more than two calendar months, then the counter party of the Party prevented shall be entitled to terminate the Agreement in respect of the Services that are affected by the occurrence of Force Majeure. The Agreement will stay in force with regard to the Services that are not affected by the occurrence of Force Majeure.

Clause 8

Notices

8.1 A Notice shall be deemed received as of the following:

- (a) if delivered by hand or by registered mail: on the time of delivery;
- (b) if sent by fax: at the time of reception, if received during Business Hours of the recipient, or else one hour after commencement of the next Business Day;
- (c) if sent by Electronic Message: at the time of reception of such Electronic Message if received during Business Hours, or else one hour after commencement of the next Business Day. An Electronic Message shall be deemed to have reached the computer system at the moment of its receipt as recorded in the receiving Party's computer system, save where evidence to the contrary is adduced by the sending Party.

8.2 In the event an Electronic Message is transmitted, the receiving Party shall acknowledge the receipt of an Electronic Message to the sending Party without undue delay. The mere fact that the sending Party does not receive acknowledgement of receipt shall not affect the validity of the Electronic Message or its effects.

Clause 9

Confidentiality

9.1 Each Party undertakes that it will not use, divulge or communicate to any person, except to its professional representatives or advisers or as may be required by law or any legal or regulatory authority, any confidential information, including without limitation, all technical and business information or financial information of the other Party, or information, marked as "Confidential", received by one Party to the Agreement (hereinafter referred to as "Receiver") from the other Party to the Agreement (hereinafter referred to as the "Disclosing Party") pursuant to or in connection with the performance of the Agreement or which may have or may in the future come to its knowledge ("Confidential Information"). Each of the Parties shall use its reasonable endeavors to prevent the publication or disclosure of any Confidential Information concerning such matter.

9.2 The obligation as set forth in Clause 9.1 shall not apply to Confidential Information which:

- (a) Is or becomes publicly available by other than unauthorized disclosure;
- (b) Was provably known and in record at the Receiver prior to disclosure by the Disclosing Party;
- (c) Is completely independently developed by the Receiver and prior to any such disclosure by the Disclosing Party, as evidenced by written records prepared prior to the Commencement Date of the Agreement;
- (d) Is ascertainable from a commercially available product; or
- (e) Is disclosed pursuant to administrative or judicial action, provided that the Receiver shall use its best efforts to maintain the confidentiality of the Confidential Information and shall, immediately after gaining knowledge or receiving notice of such action, notify the Disclosing Party thereof and give the Disclosing Party the opportunity to seek any legal remedies so as to maintain such Confidential Information in confidence.

9.3 The Customer will not use any trademark, service mark or trade name (whether registered or not) of Aqua Ray UK or any of Aqua Ray UK's Affiliated Companies or publish any press releases regarding the Agreement without the prior written consent of Aqua Ray UK.

Clause 10

Permission to Subcontract

Aqua Ray UK is entitled to subcontract all or part of its obligations under the Agreement. Aqua Ray UK will remain responsible for the fulfillment of its obligations under the Agreement.

Clause 11

Relationship

11.1 The Parties intend to record only rights and obligations between themselves in the Agreement. Therefore, the Agreement will not grant any right or protection to third parties, such as customers of Customer.

11.2 The Customer shall indemnify and keep indemnified, hold harmless and defend Aqua Ray UK in respect of any loss, damage or expense (including attorneys' fees) resulting from any claim brought by customers of the Customer regarding the subject of the Agreement.

11.3 Nothing in these General Terms and Conditions or in the Agreement is intended to or shall operate to create nor shall be deemed to create any partnership, joint understanding or joint venture between Aqua Ray UK and the Customer or to authorize the Customer to act as agent for Aqua Ray UK, and the Customer shall have no authority to act in the name or on behalf of Aqua Ray UK or to bind Aqua Ray UK in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

Clause 12

Assignment

12.1 The Agreement is personal to the Customer and the Customer may not assign, transfer, subcontract, sublicense or otherwise part with the Agreement or any right or obligation under the Agreement to any third party without the prior written consent of Aqua Ray UK.

12.2 Aqua Ray UK shall be entitled to transfer the Agreement as well as any and all rights and obligations arising out of or in connection with the Agreement upon Notice to the Customer. Aqua Ray UK shall be entitled to transfer the Agreement as well as any and all rights and obligations arising out of or in connection with the Agreement upon Notice to the Customer to an Affiliated Company.

Clause 13

Term and Termination

13.1 Subject to the provisions of this Clause the Agreement shall commence on the Commencement Date and shall remain in effect for the Initial Agreement Period after the Commencement Date. The Agreement shall thereafter be automatically renewed for a successive period of 1 (one) year unless terminated by either Party by Notice to the other Party, not less than 3 (three) months before the end of the Initial Agreement Period or any successive period.

13.2 Either Party may terminate the Agreement by Notice with immediate effect in the event that:

- (a) the other Party makes an assignment of all or substantially all of its assets for the benefit of its creditors or the other Party makes a likewise arrangement for the benefit of its creditor; or
- (b) the lease agreement between Aqua Ray UK and its landlord is validly

terminated;

- (c) the other Party becomes insolvent, or voluntary or involuntary proceedings are instituted by or against such other Party under any applicable insolvency laws; or
- (d) the other Party has been convicted of an offence concerning its professional conduct by a judgment that has the force of res judicata; or
- (e) the other Party caused damages as a result of gross negligence or willful intent;
- (f) the other Party liquidates.

13.3 Without prejudice to any other right either Party may have under the Agreement, each Party shall be entitled to terminate the Agreement or its obligations there under with immediate effect by Notice to the other Party in the event that:

- (a) the other Party breaches or fails to perform any of the terms of the Agreement and such breach or failure is (i) not capable of remedy; or (ii) if capable of remedy and after receipt of a Notice requiring such breach or failure to be remedied, is not remedied within 14(fourteen) days from the date of such Notice;
- (b) the other Party does not meet or no longer meets any or all of the technical, financial or statutory conditions for access to and use of the Services and such failure is (i) not capable of remedy; or (ii) if capable of remedy, is not remedied within the reasonable timeframe from the date of a Notice, requiring such failure to be remedied.

13.4 Any right to suspend its performance of the Agreement is without prejudice to the relevant Party's right to terminate the Agreement. Termination of the Agreement shall not prejudice the rights accrued up to the date of termination by either Party.

13.5 In the event that Aqua Ray UK has not received the full payment of an invoice on the Due Date and without prejudice to any other right Aqua Ray UK may have under the Agreement, Aqua Ray UK has the right to suspend or terminate any and all Services (including the obligation to provide the Customer Equipment with power) and deny the Customer access to the Premises, without incurring any liability.

13.6 Upon termination of the Agreement, the Customer shall promptly and without charge to Aqua Ray UK:

- (a) return to Aqua Ray UK or destroy all Confidential Information including all copies thereof which are in its possession or use at that time and provided in relation to the Agreement; and
- (b) remove all such Confidential Information stored in any equipment, computer systems, network, files, software under the control of or used by or on behalf of the Customer; and
- (c) confirm in writing to Aqua Ray UK that the actions set forth in (a) and (b) above have been taken.

13.7 Expiration or termination of the Agreement shall not prejudice the General Terms and Conditions of such Agreement, which by their nature must be deemed to survive such to expiration of termination, including but not limited to Clauses 3, 4, 6, 9 and this paragraph.

Clause 14

Miscellaneous

14.1 If any provision in the Agreement is void or avoided for whatever reason, the remaining provisions shall remain in full force and effect. The Parties shall consult each other in order to replace the void or avoided provision and shall agree on a new provision, which approximates the aim and purport of the void or avoided provision as closely as possible.

14.2 The failure on the part of either Party to exercise, or any delay in exercising, any right or remedy hereunder shall not operate as a waiver thereof; nor shall any single or

partial exercise of any right or remedy hereunder preclude any other or future exercise thereof or the exercise of any other remedy granted hereby or by any related document or by law.

14.3 Any amendments, modifications, additions, supplements and other changes to any provision of the Agreement shall only be binding on the Parties if they are made in writing and signed by a duly authorized representative of each of the Parties. Notwithstanding the foregoing, Aqua Ray UK may amend or supplement the Agreement, including the Annexes and Schedules hereto, without having to obtain the prior written consent of the Customer, to the extent that such amendments or supplements contain non-material changes or changes in order to reflect:

- (a) technical and/or operational matters, provided that such changes do not materially affect the Services; and/or
- (b) changes in applicable law, regulations or codes of conduct.

Clause 15

Statutory conditions

15.1 The Customer shall at its own costs apply for, possess and maintain any authorization, license, registration, and/or permit which is required to enable it to conduct its respective businesses and to use the Services. The Customer shall comply with the conditions as set forth in such authorization, license or permit and shall indemnify and keep indemnified Aqua Ray UK for any claim by a third party in respect of damages, losses or costs suffered, due to the Customer's non-compliance with the aforementioned obligations.