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## ◇ 1. Interpretation

1.1 In these conditions the following expressions shall bear the following meanings:

- “**DG**” Means Extra Resource Limited (trading as Document Genetics) whose registered office address is Hall Farm, Sywell Airport, Sywell, Northamptonshire, NN6 0BN. Registered in England & Wales No 3715580, VAT Registration No GB-721 4244 70.
- “**SELLER**” Means DG (as above).
- “**BUYER**” Means the Purchaser of the Goods from the Seller.
- “**ORDER**” Means the Buyer’s order for Goods.
- “**GOODS**” Means the goods (hardware and / or software) the Seller has agreed to supply to the Buyer pursuant to these Conditions.
- “**CONDITIONS**” Means the Terms and Conditions of Sale set out herein.
- “**CONTRACT**” Means the contract for the sale and purchase of the Goods made pursuant to these Conditions.
- “**DELIVERY**” Means the delivery of the Goods or any part of them in accordance with clause 6.1 of these Conditions.
- “**DELIVERY DATE**” Means the date or period for Delivery agreed by the Seller and the Buyer.
- “**FORCE MAJEURE**” Means any act of God, strike, lock-outs or other industrial disputes (whether involving the workforce of DG (or any other party) or compliance with any law of governmental or any other order, rule, regulation or direction, accident, fire, flood, storm or default of suppliers, work stoppage, war, riot or civil commotion, equipment or facilities shortages which are being experienced by providers of telecommunication services generally, or other similar events beyond its reasonable control.
- “**SERVICES**” Means the services the Seller has agreed to supply to the Buyer pursuant to these Conditions.
- “**LOSS**” Means all actions, claims, demands, losses (direct, indirect, consequential or otherwise), expenses, costs, actions and proceedings.
- “**INTELLECTUAL PROPERTY RIGHTS**” (IPR) means all patents, rights to inventions, copyright and related rights, trade marks and services marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
- “**INFORMATION**” Means any and all IPR, technical or commercial data, knowhow, show-how, formulae, processes, designs, photographs, drawings, specifications, samples, details of customers and suppliers, pricing information, samples, prototypes and other sensitive business information and any other information of a confidential nature together with any experimental or test data and results produced by the Seller as a result of it carrying out necessary tests for the purpose of performing the Contract which either directly or indirectly is disclosed by or on behalf of the Seller to the Buyer or to any person on behalf of the Buyer orally, in writing, by data transmission or in any other way.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

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## ◇ 2. Basis of Sale

- 2.1 These Conditions together with the Seller’s Acknowledgement of Order apply to all Contracts between the Seller and the Buyer and shall prevail and be effective notwithstanding any variations or additions whether contained or referred to in the Buyer’s order, or other document submitted by the Buyer including without limitation any standard conditions of purchase of the Buyer, acceptance of quotation or in correspondence or elsewhere, or implied by trade, custom, practice or course of dealing, and shall supersede all other and any prior promises, representations or undertakings.
- 2.2 No variation to these Conditions shall be binding unless agreed in writing by an authorised representative of the Seller.

- 2.3** The Seller's employees or agents are not authorised to make any representations or recommendations concerning the Goods unless confirmed by a duly authorised representative of the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed. For the avoidance of doubt, nothing herein contained shall be deemed to exclude the Seller's liability due to fraudulent misrepresentation.
- 2.4** Any typographical, clerical or other error or omission in any sales literature quotation price list, Acknowledgement of Order invoice or other documentation or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
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### ◇ 3. Orders and Specifications

- 3.1** Every acceptance by the Buyer of any quotation given by the Seller shall be deemed an offer by the Buyer to purchase Goods and Services from the Seller and will not be deemed to be accepted by the Seller until a duly authorised representative of the Seller has provided an Acknowledgement of Order or Invoice in relation to such offer by the Buyer.
- 3.2** The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Buyer and for giving the Seller any necessary information relating to the goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 3.3** If the Goods are to be manufactured by the Seller in accordance with a specification or instructions submitted by the Buyer:
- 3.3.1** the Buyer shall indemnify the Seller against all Loss suffered by the Seller in connection with any claim by a third party the manufacture and/or supply of the Goods to such specification or instructions infringes the rights of any third party, and
  - 3.3.2** the Buyer shall be responsible for supplying reliable and accurate information to the Seller (including, without limitation, drawings, plans and designs) to enable the Seller to manufacture the Goods. The Seller shall be entitled to assume that all information supplied by the Buyer is true, accurate, complete and fit for the purpose for which it is supplied and that the Seller can rely on the same. The Seller shall not be liable for any Loss or delay in Delivery of the Goods which directly or indirectly arises from the Buyer's failure to supply accurate information at all or on time.
- 3.4** No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all Loss incurred by the Seller as a result of cancellation.
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### ◇ 4. Price of Goods / Services

- Unless the contrary is expressly agreed:
- 4.1** Prices are DG's current prices. The price payable shall be DG's price ruling at date of supply.
- 4.2** Prices are exclusive of VAT (which will be applied in accordance with the legislation in force from time to time) and which the Buyer shall be additionally liable to pay to DG.
- 4.3** Prices are based on information provided by the Buyer and upon the assumption that the Goods and Services can be provided without amendment interruptions, changes made by the Buyer in specification, quantities or delivery requirements or delay caused by the Buyer any of which may cause the price to be varied.
- 4.4** Prices exclude delivery charges and expenses that may incur as part of the delivery of goods/services.
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### ◇ 5. Payment Terms

- 5.1** Ledger accounts are opened subject to satisfactory references.
- 5.2** Payment terms are normally strictly 30 days from date of invoice although DG reserve the right to change these terms. The Buyer should be aware that late or non-payment may result in software support to be withdrawn.

- 5.3** Without prejudice to any other right or remedy DG reserves the right to suspend delivery or to terminate the Contract if there is any outstanding liability owing to it by the Buyer, or if in its opinion the Buyer will not be able to meet any future or existing commitment to it.
- 5.4** Interest shall accrue on overdue amounts at an annual rate equal to 4% per annum over the then current base lending rate of HSBC Bank PLC at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.
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## ◇ 6. Delivery

- 6.1** Delivery shall be deemed to have taken place when the Seller despatches the Goods to the Buyer or for the benefit of the Buyer.
- 6.2** Any date agreed between the parties for delivery of the Goods or performance of the Services shall be an estimated date only and DG shall not be liable for any loss or damage occurring through any failure or inability to meet any such date.
- 6.3** The Buyer shall not be entitled to change the Delivery Date without the consent of a duly authorised representative to the Seller.
- 6.4** Where the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
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## ◇ 7. Cancellation

DG cannot accept cancellation of orders for goods or services made specially or tailored to the Buyer's requirements. In the case of cancellation of consultancy services DG reserve the right to charge on any expenses incurred including but not exhaustive to consultancy time already spent on the contract, pre-booked hotel reservations, petrol expense or preparation of research or training materials. With regard to pre-booked training courses, regardless of location, DG reserve the right to charge the full cost of the training, unless cancellation is received at least five days prior to the course start date.

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## ◇ 8. Title and Risk

- 8.1** Risk in the Goods will pass to the Buyer on delivery to the Buyer or the Buyer's carrier or nominee.
- 8.2** Title in the Goods will not pass until they have been fully paid for (including and without any limitation costs of services rendered, delivery and expenses incurred).
- 8.3** Goods (Hardware) shall be stored separately and be clearly identifiable as being DG's property until fully paid for.
- 8.4** DG shall be entitled to recover possession of its goods not fully paid for by the Buyer (and enter into the premises of the Buyer for that purpose) if they are not paid for by the due date or the date on which the contract is determined otherwise than on account of DG's breach.
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## ◇ 9. Confidentiality and IPR

- 9.1** The Buyer agrees and undertakes that it will keep confidential and will not disclose or use for any purpose (other than to perform its obligations under the Contract) any Information. Any Information supplied to the Buyer by the Seller shall at all times remain the property of the Seller. The Buyer shall not acquire any rights in the Information, which shall be returned to the Seller immediately upon request.
- 9.2** Unless otherwise agreed in writing all IPR in relation to the Goods including without limitation their method of manufacture shall vest in the Seller and remain the property of the Seller notwithstanding the purchase of the Goods by the Buyer and the Buyer undertakes to do all acts and/or enter into such agreements of deeds as the Seller shall require to vest any such IPR in the Seller.
- 9.3** Unless otherwise agreed in writing and notwithstanding that the Buyer may have contributed towards the costs of such items all tooling (and all IPR in relation to such tooling) produced or acquired by the Seller in relation to the manufacture of the Goods shall be and remain the property of the Seller.

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## ◇ 10. Warranties and Liability

- 10.1** The Seller warrants that at Delivery the Goods will be free from defect in materials, workmanship and design (where designed by the Seller) provided that subject as aforesaid and expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or other terms implied by statute and/or common law are excluded to the fullest extent permitted by law.
- 10.2** Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.
- 10.3** Any specification supplied by the Seller in any estimate or quotation shall be approximate only and for information and guidance only and shall not form part of the Contract.
- 10.4** Any claim based upon the quality or condition of the Goods or any failure of the Goods to meet the Specification ("Claim") by the Buyer shall (whether or not delivery is refused by the Buyer) be notified to the Seller in writing within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within one month after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability in respect of such a Claim and the Buyer shall be bound to pay the Price as if the Goods had been delivered in accordance with the Contract. The Buyer shall not be entitled to make any Claim after the expiration of six months from the date of Delivery of the Goods.
- 10.5** Where any valid Claim in respect of any of the Goods is notified to the Seller in accordance with clause 10.4 the Seller shall be entitled to replace the Goods (or the part in question) free of charge or at the Seller's sole discretion refund to the Buyer the Price (or a proportionate part of the Price) but the Seller shall have no further liability to the Buyer and the Buyer shall have no other remedy.
- 10.6** The Seller shall have no liability to the Buyer in relation to non-delivery or short delivery of the Goods unless such non-delivery or short delivery is notified to the Seller in writing within fourteen days of the Delivery Date.
- 10.7** Where any valid claim in respect of the Goods is notified to the Seller in accordance with clause 10.6 the Seller shall be entitled to deliver the Goods or the shortfall of the Goods, but the Buyer shall have no other remedy.
- 10.8** Except in respect of death or personal injury caused by the Seller's negligence the Seller's total liability to the Buyer under these Conditions shall not exceed the total price of all Goods and services supplied hereunder.
- 10.9** The Seller shall have no liability to the Buyer under or arising out of or otherwise in connection with the Contract or the supply of Goods by the Seller to the Buyer and/or their use or resale by the Buyer in contract tort (including negligence or breach of statutory duty) or otherwise for loss of profit, business, contracts, revenues or anticipated savings or for any special indirect or consequential damage or loss of any nature or for the costs of recall of any Goods except as may otherwise be expressly provided for in these Conditions.
- 10.10** Notwithstanding any provision of these Conditions the Seller shall have no liability to the Buyer in respect of any defect in the quality of the Goods or the failure of the Goods to meet Specification where the defect or failure has arisen as a result of improper usage or storage, or any act or omission of the Buyer.
- 10.11** For the avoidance of doubt nothing herein contained shall be deemed to exclude or restrict the Seller's liability for death or personal injury arising due to the Seller's negligence.
- 10.12** Where any claim is made under this clause 10 the Buyer grants the Seller or its agents the right to enter upon the Buyer's premises to inspect the Goods. Unless and until the Seller has been afforded an opportunity to examine the Goods no claim will be accepted.
- 10.13** The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods if the delay or failure was due to Force Majeure.
- 10.14** The Buyer shall indemnify the Seller against all Loss suffered by the Seller which arises as a result of the breach by the Buyer of any provision of the Contract or the negligence of the Buyer or any of its representatives.

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## ◇ 11. Insolvency of Buyer

- 11.1** The Seller shall be entitled to suspend further performance of the Contract for such time as it shall in its absolute discretion see fit or treat the Contract as wrongfully repudiated by the Buyer and forthwith terminate the Contract (either with or without notice to the Buyer) without any liability to the Buyer and if the Goods have been delivered but not paid for the outstanding invoice shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary, if:
- 11.1.1** an order is made or a resolution is passed for the Buyer winding-up or an order is made for the appointment of an administrator to manage the Buyer's affairs, business and property, or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the Buyer or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of any or all of the Buyer's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the Buyer take or suffer any similar or analogous action in consequence of debt or (being an individual) are deemed either unable to pay the Buyer's debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) have any partner to whom any of the foregoing apply or (being an limited liability partnership) suffer any similar or analogous event to those listed above; or
- 11.1.2** the Buyer undergo a change of control, where "control" has the meaning given in section 1124 of the Corporation Tax Act 2010.
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## ◇ 12. General

- 12.1** The Seller shall be entitled to assign or subcontract all or any of its rights and obligations hereunder. The Buyer shall not be entitled to assign, transfer, subcontract or otherwise delegate any of its rights or obligations hereunder.
- 12.2** Any notice required or permitted to be given by either party to the other under these Conditions shall be given in writing at its registered office or principal place of business or such other address as may be notified for such purpose to the party giving notice.
- 12.3** No waiver by the Seller of any breach of Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 12.4** If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 12.5** The parties hereto intend that no term of the Contract may be enforced by any person, entity or body that is not a party to the Contract.
- 12.6** The Contract shall be governed by the laws of England and Wales and the Buyer and the Seller hereby submit to the exclusive jurisdiction of the English Courts save with respect to enforcement where their jurisdiction shall be non-exclusive.
- 12.7** We may occasionally monitor and record calls made to or by us for the purpose of training and improving customer care services, including complaint handling.