

Workair Limited Standard Terms and Conditions v2.1 - February 2023

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Business Day: means a day other than a Saturday, Sunday or public holiday in Ireland or from 23 December to 2 January inclusive each year, being the Christmas holidays.

Business Hours: means the period from 9.00 am to 5.30 pm on any Business Day.

Commencement Date: has the meaning given in clause 2.2.

Conditions: means these terms and conditions as amended from time to time in accordance with clause 18.7.

Contract: means the contract between Workair and the Customer for the supply of Goods and/or Services in accordance with the Order and these Conditions.

Customer: means the person or firm who purchases the Goods and/or Services and/or Licence Service from Workair.

Customer Minimum Requirements: means the minimum technical requirements required by the Customer as set out by Workair to support the Services and/or Licence Service which are attached to the Order.

Data Protection Laws: means the Data Protection Acts 1988 to 2018, the General Data Protection Regulation (EU) 2016/679, the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 and any national implementing law, regulations and secondary legislation, as amended or updated from time to time, in Ireland.

Deliverables: means the deliverables set out in the Order produced by Workair for the Customer.

Delivery Location: has the meaning given in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 17.

Goods: means the goods (or any part of them) to include but not limited to handsets, headsets and computer hardware set out in the Order.

Goods Specification means any specification for the Goods, including any relevant plans or drawings, that is agreed by the Customer and Workair, more specifically set out within the Order.

Intellectual Property Rights: means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications 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.

Licence Service: means licences supplied by Workair provided by the Service Provider to the Customer as set out in the Service Specification.

Manufacturer: means the person or company who has produced the Goods, which Workair is reselling on behalf of, as set out in the Order.

Order: means the Customer's order for the supply of Goods and/or Services and/or Licence Service, as set out in the Customer's purchase order form provided by Workair.

Services: means the services, including the Deliverables and any Workair owned software applications to include but not limited to consulting services, managed services, professional services and deployment/installation services supplied by Workair to the Customer as set out in the Service Specification.

Service Provider: means the person or company who has provided the Services and/or Licence Service, which Workair is reselling on behalf of, as set out in the Order.

Service Specification: means the description or specification for the Services and/or Licence Service provided in writing by Workair to the Customer, along with any terms and conditions and/or end user agreement from the Service Provider, which may be attached to the Order.

Supplier Materials: has the meaning given in clause 8.1(j).

Workair: means Workair Limited registered in Ireland with company number 573444.

1.2 Interpretation:

(a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

(d) A reference to **writing** or **written** excludes fax and email.

2. Basis of contract

2.1 The Order constitutes an offer by Workair to sell the Goods and/or Services and/or Licence Service in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Customer has provided written acceptance of the Order, and this has been received by Workair at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 In respect of Licence Service the Contract shall come into existence with effect from the date when the Customer has provided the written acceptance of the Order and this has been received by Workair however the Customer acknowledges that the Initial Term, as defined in clause 14.1, for the Licence Service will not commence until the first invoice for the Licence Services has been issued to the Customer.

2.4 Any quotes, samples, drawings, descriptive matter or advertising issued by Workair and any descriptions of the Goods or illustrations or descriptions of the Licence Service and/or Services contained in Workair's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the

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- Licence Service and/or Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.6 All of these Conditions shall apply to the supply of both Goods, Licence Service and Services except where application to one or the other is specified.
- 2.7 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 3. Goods**
- 3.1 The Goods are described in the Goods Specification.
- 3.2 Workair reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and Workair shall notify the Customer in any such event.
- 4. Delivery and Installation of Goods**
- 4.1 Workair shall ensure that:
- (a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (b) it states clearly on the delivery note any requirement for the Customer to return any packaging material to Workair. The Customer shall make any such packaging materials available for collection at such times as Workair shall reasonably request. Returns of packaging materials shall be at Workair's expense.
- 4.2 Workair shall arrange delivery of the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Workair notifies the Customer that the Goods are ready. Delivery costs shall be borne by the Customer and shall be invoiced accordingly by Workair.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Workair shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event, any delay or failure by a supplier of the Goods other than Workair to deliver the Goods for whatever reason or the Customer's failure to provide Workair with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 Workair shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, any delay or failure by a supplier of the Goods other than Workair to deliver the Goods for whatever reason or the Customer's failure to provide Workair with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 If the Customer fails to take delivery of the Goods within three Business Days of Workair notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Workair's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Workair notified the Customer that the Goods were ready; and
- (b) Workair shall store the Goods until actual delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If ten Business Days after the day on which Workair notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, Workair may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.8 Workair may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 5. Quality of Goods**
- 5.1 The Customer agrees that the warranty on delivery of the Goods is the warranty provided by the Manufacturer and that Workair is not warranting the Goods whatsoever.
- 5.2 Should the Customer discover that some or all of the Goods do not comply with the warranty set out in clause 5.1, it should liaise directly with the Manufacturer for assistance and/or relief. If:
- (a) the Customer gives notice in writing to Workair within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- (b) Workair, at its option, is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by Workair) returns such Goods to Workair's place of business at the Customer's cost,
- Workair shall, at its option, assist the Customer in liaising with the Manufacturer for the repair or replacement of the defective Goods, or refund the price of the defective Goods. Workair will be under no obligation to assist the Customer in any manner however and may provide assistance at its own option.
- 5.3 Workair shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 6. Title and risk**
- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until Workair receives payment in full (in cash or cleared funds) for the Goods.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods held by the Customer so that they

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- remain readily identifiable as Workair's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Workair's behalf from the date of delivery;
 - (d) notify Workair immediately if it becomes subject to any of the events listed in clause 14.3(b) to clause 14.3(d); and
 - (e) give Workair such information as Workair may reasonably require from time to time relating to:
 - (i) the Goods; and
 - (ii) the ongoing financial position of the Customer.
- 6.4 At any time before title to the Goods passes to the Customer, Workair may:
- (a) by notice in writing, terminate the Customer's right to resell the Goods or use them in the ordinary course of its business; and
 - (b) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 7. Supply of Services and Licence Services**
- 7.1 Workair shall supply the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 Workair will provide the Licence Service through the Service Provider as described in the Order. The Customer agrees that the Service Provider is responsible for provision of Licence Service as detailed in the Service Specification.
- 7.3 Any liability for the Licence Service will be passed through by Workair to the Service Provider and Workair does not accept any liability associated with the provision of the Licence Service from the Service Provider.
- 7.4 Workair reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services and/or Licence Service, and Workair shall notify the Customer in any such event.
- 7.5 The Licence Service are supplied to the Customer directly by the Service Provider. Workair shall be responsible for billing and collection payments from the Customer on behalf of the Service Provider.
- 7.6 Workair warrants to the Customer that the Services will be provided using reasonable care and skill.
- 7.7 Workair shall provide a basic level of customer support to the Customer in respect of the Licence Service. Should the Customer raise an issue about the Licence Service to Workair, at its option, Workair may either resolve the issue directly or refer the issue for resolution to the Service Provider. Should an issue arise outside of Business Hours, the Customer shall be obliged to make contact with the Service Provider directly and Workair will be under no obligation to resolve the issue.
- 8. Customer's obligations**
- 8.1 The Customer shall:
- (a) ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
 - (b) co-operate with Workair and/or the Service Provider in all matters relating to the Licence Service and/or Services;
 - (c) provide Workair and/or the Service Provider, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required to provide the Licence Service and/or Services;
 - (d) provide Workair with such information and materials as Workair may reasonably require in order to supply the Licence Service and/or Services, and ensure that such information is complete and accurate in all material respects;
 - (e) prepare the Customer's premises, at its own cost, for the supply of the Licence Service and/or Services;
 - (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Licence Service and/or Services before the date on which the Licence Service and/or Services are to start;
 - (g) comply with all applicable laws, including health and safety laws;
 - (h) shall not use the Licence Service and/or Services in any manner which would be defamatory, offensive or abusive or in any way illegal or in breach of any law or may cause Workair or the Service Provider to breach any law;
 - (i) shall not use the Licence Service and/or Services in a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to right of copyright or confidentiality) or in a manner which allows third parties to interfere with or corrupt the Licence Service and/or Services in any way;
 - (j) keep all materials, equipment, documents and other property of Workair (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain Supplier Materials in good condition until returned to Workair, and not dispose of or use Supplier Materials other than in accordance with Workair's written instructions or authorisation; and
 - (k) comply with any additional obligations as set out in the Service Specification and the Goods Specification, including any policy of the Service Provider.
- 8.2 Further to the Customer obligations set out in clause 8.1, the Customer is aware that the Licence Service and the Services are dependent on the Customer's

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- maintenance of sufficient internet access, networks and power, as set forth in Customer Minimum Requirements document.
- 8.3 If Workair's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) without limiting or affecting any other right or remedy available to it, Workair shall have the right to suspend performance of the Services and/or Licence Service 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 Workair's performance of any of its obligations;
 - (b) Workair shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Customer's failure or delay to perform any of its obligations as set out in clause 8.2; and
 - (c) the Customer shall reimburse Workair on written demand for any costs or losses sustained or incurred by Workair arising directly or indirectly from the Customer Default.
- 9. Charges and payment**
- 9.1 The price for Goods shall be the price set out in the Order.
- 9.2 The charges for Services shall be the price set out in the Order.
- 9.3 The charges for the Licence Service shall be the price set out in the Order.
- 9.4 Workair reserves the right to:
- (a) amend the charges for the Licence Service after the conclusion of the Initial Term as set out in the Order;
 - (b) amend the charges for the Services after the conclusion of the Initial Term as set out in the Order;
 - (c) amend the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Workair that is due to:
 - (i) any factor beyond the control of Workair (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Workair adequate or accurate information or instructions in respect of the Goods.
- 9.5 In respect of Goods, Workair shall invoice the Customer on or at any time after completion of delivery. In respect of Services and Licence Service, Workair shall invoice the Customer monthly in advance, except where specifically set out in the Order.
- 9.6 The Customer shall pay each invoice submitted by Workair:
- (a) within 28 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by Workair, and
- time for payment shall be of the essence of the Contract
- 9.7 In relation to Licence Service, the Customer shall be obliged to set up a direct debit prior to the commencement of the Contract and each invoice submitted by Workair shall be paid through direct debit.
- 9.8 In relation to Licence Service, failure to discharge an invoice within the time period set out in clause 9.6, will entitle Workair to suspend the Licence Service. Should Workair suspend the Services, a reconnection fee of €1,000 may be applied.
- 9.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Workair to the Customer, the Customer shall, on receipt of a valid VAT invoice from Workair, pay to Workair such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.10 If the Customer fails to make a payment due to Workair under the Contract by the due date, then, without limiting Workair's remedies under clause 14, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.10 will accrue each day at 4% a year above the Bank of Ireland's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 9.11 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 10. Intellectual property rights**
- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by Workair or has been validly licenced by a third party to Workair.
- 10.2 All Intellectual Property Rights in or arising out of or in connection with the Licence Service (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Service Provider or has been validly licenced by a third party to the Service Provider.
- 10.3 Workair grants to the Customer or shall procure the direct grant to the Customer of, a fully paid-up, non-exclusive licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and/or Licence Service and the Deliverables in its business.

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- 10.4 The Customer shall not sub-licence, assign or otherwise transfer the rights granted by clause 10.3.
- 11. Data protection**
- 11.1 The following definitions apply in this clause 11:
- (a) **Controller, Processor, Sub-Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Laws.
- 11.2 Both parties will comply with all applicable requirements of the Data Protection Laws. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Laws.
- 11.3 The parties acknowledge that for the purposes of the Data Protection Laws, the Customer is the Controller and Workair is the Processor. The Customer also acknowledges that the Service Provider is a Sub-Processor.
- 11.4 Without prejudice to the generality of clause 11.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Workair (and any Service Provider, as Sub-Processor, if applicable) and/or lawful collection of the Personal Data by Workair (and any Service Provider, as Sub-Processor, if applicable) on behalf of the Customer for the duration and purposes of the Contract.
- 11.5 Without prejudice to the generality of clause 11.2, Workair shall, in relation to any Personal Data processed in connection with the performance by Workair of its obligations under the Contract:
- (a) process that Personal Data only on the documented written instructions of the Customer unless Workair is required by the Data Protection Laws to otherwise process that Personal Data;
- (b) ensure that it has in place appropriate technical and organisational measures, 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);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or Workair has provided appropriate safeguards in relation to the transfer;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) Workair complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
- (iv) Workair complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by any law of Ireland to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 11.
- 11.6 The Customer consents to Workair appointing the Service Provider as a third-party processor of Personal Data under the Contract. Workair confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business and in either case which Workair confirms reflect and will continue to reflect the requirements of the Data Protection Laws. As between the Customer and Workair, Workair shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.6.
- 12. Confidentiality**
- 12.1 Each party undertakes that it shall not at any time during the Contract and after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information:

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- (a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 13. Limitation of liability:**
- 13.1 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation.
- 13.3 Subject to clause 13.2, Workair's total liability to the Customer shall not exceed the total amount paid for the Services and/or the Licence Service and/or the total amount paid for the Goods.
- 13.4 This clause 13 shall survive termination of the Contract.
- 14. Term and Termination**
- 14.1 The initial term of the Contract is set out in the Order (**Initial Term**). In respect of the Licence Service, the Contract shall automatically renew at the conclusion of the Initial Term for a further 12 month period (**Successive Term**), if Workair has not received a written notice from the Customer of termination of the Contract not less than 30 days prior to the end of the Initial Term. Each Successive Term shall automatically renew thereafter if Workair has not received a written notice from the Customer of termination of the Contract not less than 30 days' prior to the end of the previous Successive Term.
- 14.2 Should the Customer wish to terminate the Contract prior to the conclusion of the Initial Term or any Successive Term, if applicable, (**Early Termination**), they may terminate the Contract by giving the other party not less than 3 months' written notice.
- 14.3 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 14.4 Without affecting any other right or remedy available to it, Workair may terminate the Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under the Contract on the due date for payment; or
- (b) there is a change of control of the Customer; or
- (c) the agreement between the Service Provider and Workair has been terminated.
- In the event of the agreement being terminated as set out at this clause 14.4(c), Workair shall assign the agreement to the Service Provider.
- 14.5 Without affecting any other right or remedy available to it, Workair may suspend the supply of Licence Service or Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Workair if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.3(b) to clause 14.3(d), or Workair reasonably believes that the Customer is about to become subject to any of them.
- 15. Consequences of termination**
- 15.1 On termination of the Contract:
- (a) the Customer shall immediately pay to Workair all of Workair's outstanding unpaid invoices and interest and, in respect of Licence Service, Services and Goods supplied but for which no invoice has been submitted, Workair shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- (b) in respect of Licence Service, where it's an Early Termination, the Customer shall immediately pay to Workair all such amounts which would be due to Workair for the remainder of the Initial Term or Successive Term, as applicable;
- (c) the Customer shall return all of Workair Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then Workair may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will

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- not use them for any purpose not connected with this Contract.
- 15.2 Where a Customer has requested the termination of the Contract in respect of the Services during the term of the Contract Workair may at its absolute discretion, either:
- (i) invoice the Customer for the Service fees, at the agreed rate, for the remainder of the term of the Contract; or
 - (ii) agree a one-off settlement fee with the Customer to enable the Service to be cancelled; or Workair may extend the length of the Customer contract for any remaining Services.
- 15.3 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 15.4 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
- 16. Suspension of Licence Service**
- 16.1 Workair or the Service Provider may suspend the provision of Licence Service (in whole or in part) if:
- (i) such suspension is reasonably necessary to enable Workair or the Service Provider to comply with an order, instruction or request of legal or regulatory authority; and/or
 - (ii) Workair or the Service Provider is required to carry out any work relating to upgrading or maintenance of their network; and/or
 - (iii) the Customer does not pay any sum due and owing to Workair or the Service Provider; and/or
 - (iv) the Customer breaches any material term of the Contract.
- 16.2 Any suspension of the Licence Service shall be without prejudice to Workair's rights under the Contract.
- 17. Force majeure**
- Except as relates to payments, neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control including without limitation any act of God, inclement weather, failure or shortage of power supplies, flood, fire, act or acts of terrorism or infectious diseases or omission of Government, highway authority, other telecommunications operators, administrators or other competent authority, military operations or riot (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for more than 3 months from the date of its commencement and such events shall prevent Workair from performing its obligations in whole or in part during that period, either
- party may terminate the Contract with immediate effect.
- 18. General**
- 18.1 Assignment and other dealings**
- (a) Workair may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
 - (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Workair.
- 18.2 Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case);
 - (ii) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 18.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 18.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 18.4 Waiver.**
- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
 - (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 18.5 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or

authorise either party to make or enter into any commitments for or on behalf of the other party.

- 18.6 **Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties.
 - (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 18.7 **Variation.** Except as set out in these Conditions, Workair may vary these Conditions upon two weeks written notice to the Customer.
- 18.8 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Ireland.
- 18.9 **Jurisdiction.** Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.