

## **TERMS AND CONDITIONS – GOODS AND PROFESSIONAL SERVICES**

### **1 INTRODUCTION**

- 1.1 These Terms and Conditions govern your purchase of goods and professional services from us. Please read these Terms and Conditions carefully. Please note that these Terms and Conditions do not cover the Planet eStream platform which is governed by separate Licence and Contract Terms.

### **2 YOUR STATUTORY RIGHTS AS A CONSUMER**

- 2.1 Nothing in these Terms and Conditions shall affect your statutory rights when acting in your capacity as a consumer.

### **3 AMENDMENTS**

- 3.1 These Terms and Conditions shall apply for the purchase of goods and professional services to the exclusion of any other Terms and Conditions (including any Terms and Conditions which you may purport to apply under any order). Amendments to these Terms and Conditions shall only be effective if one of our duly authorised officers has agreed to the amendment in question in writing.
- 3.2 We reserve the right to amend these Terms and Conditions at any time without prior notice. The supply of goods or professional services to you will be governed by the version of these Terms and Conditions in force at the time you place your order.

### **4 PRODUCT INFORMATION, AVAILABILITY AND SUBSTITUTE GOODS**

- 4.1 All drawings, brochures, descriptive matter, information, price lists and advertisements, whether or not published on our website or supplied with any quotation or tender submitted by us, are intended merely to give a general idea of the goods or professional services in question and shall not form part of these Terms and Conditions.
- 4.2 The supply of goods and professional services to you is subject to availability. We reserve the right to withdraw any goods or professional service from sale at any time without any notice.
- 4.3 We shall be entitled to amend or vary the specification or design of any goods and/or professional services ordered by you prior to supplying them to you where, in our reasonable opinion, such amendment or variation does not affect the suitability of the goods and/or professional services for the purpose for which they are supplied.

### **5 PRICES AND QUOTATIONS**

- 5.1 We reserve the right to amend (whether orally or in writing) any price stated on our website or elsewhere at any time without giving notice.
- 5.2 Unless stated otherwise, all prices are exclusive of value added tax and any other government duty or tax that is applicable and shall be charged in addition by us at the rate and in the manner prescribed by law from time to time.
- 5.3 Where you request that we deliver goods outside of the United Kingdom, you shall be solely responsible for obtaining all necessary licences, consents and the like required to lawfully import the goods in question into the country in question. You shall also be solely liable for any import duty, tax or the like imposed upon the import of those goods into that country.

## **6 PLACING YOUR ORDER**

- 6.1 You can place orders with us via email, digitally by completing an online quotation acceptance form, or by post. For more information about the methods for placing an order, please contact our sales team via email at sales@planetestream.co.uk.
- 6.2 Your order is an offer to buy goods and / or professional services from us and is subject to acceptance by us. There will be no contract between you and us for the supply of any goods and / or professional services unless and until we accept your offer by supplying the goods or professional services ordered.

## **7 PAYMENT**

- 7.1 All payments to be made by you are to be made in pounds sterling.
- 7.2 You can pay for goods or professional services purchased from us by bank transfer or by using any of the credit or debit cards from time to time accepted by us. Any other methods of payment are accepted at our sole discretion.
- 7.3 If paying by credit or debit card, you must give us authority for payment at the time of your order and confirm that the credit or debit card being used for payment is yours. We shall be entitled to debit your card for the relevant price (plus any delivery charges) at any time from accepting your order to delivering it to you.
- 7.4 All credit and debit card payments are subject to validation checks and authorisation by the relevant card issuer. We will not deliver any goods to you nor provide any professional services prior to these checks and authorisations being successfully completed. If your card issuer refuses to authorise payment to us, we cannot accept your order and will not be liable for any consequent delay in or non-delivery. Should we agree to accept payment by cheque, we cannot accept your order and will not be liable for any consequent delay in or non-delivery if the cheque issuer declines to honour your cheque.
- 7.5 In the event that we grant you credit facilities (which shall be at our sole discretion), we shall be entitled to invoice you for the price of goods and professional services delivered or provided to you (as appropriate) at any time on or after delivery or commencement of the performance of professional services. If goods or professional services are delivered or performed in instalments, then we shall be entitled to invoice you in instalments.
- 7.6 We shall be entitled to withdraw or amend any credit facility granted by us to you at any time and for any reason.
- 7.7 In the event that we grant you a credit facility, then unless specified otherwise by us, all invoices submitted must be paid by you in cleared funds within 30 days of the date of invoice.
- 7.8 Regardless of the method of payment used by you, you shall not have any right of deduction, set-off or abatement on any grounds.
- 7.9 In the event that you fail to pay us for any goods delivered, or professional services provided to you by the due date, then we reserve the right to:
- (a) charge to you in addition interest on all overdue sums at a rate of 3% above the base lending rate from time to time in force of the National Westminster Bank Plc. Such interest will accrue before, as well as after, any judgement; and

- (b) dispose any of your property in our possession on giving you 21 days' notice and apply the proceeds of any such sale to satisfy your debt to us.

## **8 DELIVERY**

- 8.1 All orders for goods accepted by us will be delivered to you using an insured courier. Delivery costs vary dependent upon which country you wish the goods to be delivered to and the size of your order. The cost of delivery is payable by you in addition to the price of the goods and will be advised at the time you order.
- 8.2 At the time you place an order, we will provide you with an estimated delivery date. Whilst we use reasonable endeavours to meet delivery dates provided by us, time of delivery shall not be of the essence of any order accepted by us and we shall not be liable to you for any loss or damage suffered by you because of any delay in delivery.
- 8.3 You should inspect any goods delivered to you as soon as possible and inform us in writing within seven days of the date of delivery of any damage to the goods delivered or of any incomplete delivery. If we do not receive any written communication from you within this seven-day period, then you shall be deemed to have accepted the order in question.
- 8.4 From time to time, we may deliver goods to you or perform professional services in instalments. If any amount is overdue from you to us, we reserve the right to suspend further deliveries or performance of professional services until you have paid to us in cleared funds all overdue amounts.
- 8.5 Please note that we will not consider any claims for non-delivery unless you notify us in writing of your claim within fourteen days of the date of the relevant invoice and any failure by you to give notice within this period shall be deemed to be a waiver of your right to claim.
- 8.6 We will provide you with one copy of our invoice by email (in respect of orders to be delivered within the United Kingdom) or multiple hard copies of our invoice sent with the goods at the time of delivery (in respect of orders to be delivered outside of the United Kingdom). If you require us to complete any other paperwork in connection with your order, please inform us at the time that you place your order as this will incur additional administration charges that we will agree with you.

## **9 RISK AND TITLE**

- 9.1 Risk of damage to or loss of any goods ordered by you will pass to you upon delivery – Section 20(2) of the Sale of Goods Act 1979 shall not apply. If you fail to take delivery of any goods at the time notified by us or otherwise prevent us from delivering any goods to you, risk but not title in those goods will pass to you at the time that we first attempted to deliver the goods in question to you.
- 9.2 In the event that you fail to take delivery of any goods at the first time we attempt to deliver them, or we agree with you to postpone delivery, then we shall be entitled (at our discretion) to charge to you the costs of storing the goods in question until we are able to deliver them to you. We also reserve the right to recharge to you the applicable delivery charge for each time we attempt to make a delivery to you.

- 9.3 Legal and equitable title to any goods ordered by you shall not pass to you unless and until we have received from you in cleared funds all monies due from you to us whether in respect of the goods delivered or otherwise.
- 9.4 Until title passes to you, any goods which we deliver to you are to be held by you on a fiduciary basis as our bailee. During this time, you must:
- (a) store the goods (at no cost to us) so that they are easily identifiable as belonging to us;
  - (b) not destroy, deface, or otherwise obscure any identifying marks on the goods or their packaging;
  - (c) insure the goods on our behalf for the full price of the goods against "all risks" and provide us with a copy of the relevant insurance policy and evidence of payment of the most recent premium should we request it; and
  - (d) hold the proceeds of any insurance claim relating to the goods on trust for us and not mix it with any other funds nor pay it into an overdrawn bank account.
- 9.5 Until title to any goods passes to you, you shall still be able to re-sell goods which we have delivered to you in the ordinary course of your business, provided that such right shall immediately cease in the event that there is any breach by you of these Terms and Conditions, or we become entitled to terminate any contract for the sale of goods to you. In the event that you do re-sell any goods prior to title in them passing to you, you shall ensure that the entire proceeds of any such sale shall be held on trust for us, not mixed with any other monies nor paid into an overdrawn bank account and shall at all times be identifiable as monies belonging to us.
- 9.6 Until title passes to you, we shall be entitled to require you at any time to deliver up to us any goods which we have delivered to you. If you fail immediately to do so, we shall be entitled (and you hereby authorise us) to enter into any premises where the goods are stored to repossess them and, if necessary, to remove the goods from anything to which they have been attached.
- 9.7 You shall not be entitled to pledge or charge by way of security or indebtedness any goods in which title has not yet passed to you. Should you attempt to do so then all sums owing from you to us shall immediately become due.
- 9.8 Regardless of whether title in any goods has passed to you, We shall be entitled to bring an action against you for the price of any goods delivered or professional service provided to you, should you fail to pay for the goods in question by the due date.

## **10 GUARANTEES**

- 10.1 We will use our reasonable endeavours to transfer to you the benefit of any manufacturer's warranty or guarantee provided to us applicable to the goods or professional services in question.
- 10.2 Please note that where you purchase goods from us which have deviations or faults which are made known to you prior to placing your order then such goods are sold in their actual state "as seen". You will not have any claim against us in respect of any such known faults or deviations.

## **11 BESPOKE ORDERS**

- 11.1 We may agree to provide you with goods or professional services to be manufactured or amended or performed (as appropriate) in accordance with instructions, information, drawings, designs and / or specifications provided by you. In such circumstances, the following conditions will apply:
- (a) no guarantee or warranty is given by us as to the practicality, efficiency, safety, or legality or otherwise of the goods and / or professional services. Any amendment to the goods and / or professional services may also result in the invalidation of any manufacturer's warranty which would otherwise apply;
  - (b) you agree to hold us harmless and indemnify us against all losses and liability incurred by us as a result
    - of:
      - the goods and / or professional services in question infringing any rights (including any intellectual property rights which include, but are not limited to, copyrights, patents and trademarks) of any third party;
      - the goods and / or professional services in question infringing any statute, statutory provisions, legislation, directive or the like; and
      - any impracticality, inefficiency or lack of safety or other defect in the goods and / or professional services where such defect is due (in whole or in part) to faults or omissions in any instructions, information, drawings, designs and / or specifications provided by you.
- 11.2 Please note that if you order bespoke goods from us acting in your capacity as a consumer, then you shall not be entitled to any right of cancellation pursuant to the Distance Selling Regulations.

## **12 RETURNS**

### **12.1 No Fault Returns – Refunds or Credit Notes**

- (a) In the event that you purchase any goods from us and subsequently change your mind then you must inform us of this within seven days of the date of the relevant invoice by emailing [customerservices@planetestream.co.uk](mailto:customerservices@planetestream.co.uk). We may decide (at our sole discretion) to allow you to return those goods to us and provide you with a refund or credit note. Please note that under no circumstances are we able to accept returns of third-party software (whether supplied alone or bundled with any hardware) once you have opened, installed and / or downloaded the third-party software in question.
- (b) If we agree to allow you to return any goods then you must return them to us (at your own expense) within 30 days of our agreement to do so. Goods must be returned to us in their original packaging, undamaged, unused and in a fully re-saleable condition. Please note that you bear the risk of damage to goods during transit and we therefore recommend that you use an insured courier service. If goods are returned to us other than in their original condition, or after 30 days then we reserve the right to refuse to accept your return, in which case we will return the goods to you. We shall be entitled to charge you for the cost of making that return delivery.
- (c) We shall be entitled to deduct from the refund made by us or the credit note issued by us a restocking fee which represents the costs incurred by us of accepting a return even though

the goods in question were not faulty. This fee is usually 5 – 15% of the price of the goods and we will advise you of it at the time we agree to accept your return.

- (d) If goods are returned to us other than in their original condition and / or after 30 days, then we shall be entitled to refuse to accept your return (in which case we shall return the goods to you - please note that we shall be entitled to charge you for the cost of this return delivery) or we may advise you that an increased restocking fee is to apply (in which case, you shall have the option of either paying that increased restocking fee or alternatively, revoking your request to return in which case we shall return the goods to you - please note that we shall be entitled to charge you for the cost of this return delivery).

## **12.2 Return of Faulty Goods – Refunds or Credit Notes**

- (a) If you believe that any goods, we have delivered to you are faulty and wish to claim a refund or a credit note, then you must inform us of this within fourteen days of the date of the relevant invoice by emailing us via [customerservices@planetestream.co.uk](mailto:customerservices@planetestream.co.uk) If you fail to inform us within fourteen days, then our repair policy as set out in 12.3 shall apply instead.
- (b) You must return the goods to us (at your own cost) within 30 days complete in their original packaging and with all manuals. Please note that you bear the risk of damage to goods during transit and we therefore recommend that you use an insured courier service.
- (c) Following receipt of the goods, one of our technicians acting reasonably will validate the fault you have identified, and we endeavour to do this within two working days. If the fault is found to be valid then we will refund to you the price of those goods or issue a credit note.
- (d) If the fault is not found to be valid then we shall inform you of this and return the goods to you – please note that we shall be entitled to charge you for the cost of this return delivery.

## **12.3 Return of Faulty Goods – Replacement and Repairs**

- (a) If you believe that any goods we have delivered to you are faulty and you wish to claim a replacement or repair in accordance with the applicable manufacturer’s warranty at any time during the twelve month period following delivery then you should inform us of this by emailing [customerservices@planetestream.co.uk](mailto:customerservices@planetestream.co.uk).
- (b) You must return the goods to us (at your own cost) within 30 days of reporting the fault complete in their original packaging and with all manuals. Please note that you bear the risk of damage to goods during transit and we therefore recommend that you use an insured courier service.
- (c) Following receipt of the goods, one of our technicians acting reasonably will validate the fault you have identified, and we endeavour to do this within two working days. If the fault is found to be valid then we will process your claim under the manufacturer’s warranty on your behalf and then return the goods in question to you – if you are based outside of the United Kingdom, we reserve the right to charge you for applicable delivery charges relating to the cost of returning goods to you.
- (d) Please note that we do not offer advance replacement of goods or access to loan equipment whilst your goods are undergoing repair or replacement, and, whether you receive a repair or replacement and the length of time taken for this will be subject to the terms of the applicable manufacturer’s warranty over which we have no control.

- (e) If following our inspection any fault is found not to be valid then we shall inform you of this and return the goods to you – please note that we shall be entitled to charge you for the cost of this return delivery.
- (f) Should you wish to make a claim under any manufacturer’s warranty at any time after the end of the twelve-month period from the date of delivery we offer a service whereby we will process such claim on your behalf. This service does carry a charge and you should therefore contact us prior to returning any goods to us to discuss your requirements and obtain an estimate for costs.

### **13 DISCLAIMERS**

- 13.1 Nothing contained in these Terms and Conditions shall act so as to exclude or limit our liability for death or personal injury caused by our negligence nor for fraudulent misrepresentation. **Subject to this, our entire liability to you in relation to the supply of goods and professional services to you shall be limited to the amount we have received from you for the goods and / or professional services relating to the claim in question. In no event shall we be liable to you for any indirect or consequential loss (such terms to include, but not be limited to, loss of profit, loss of business, loss of anticipated savings, damage to reputation and / or damage to goodwill).**
- 13.2 We make no representation that the purchase or use of any of the goods or professional services available from us are appropriate or legally permitted elsewhere.
- 13.3 We will not be responsible for any breach of these Terms and Conditions that is caused by circumstances beyond our control, including, but not limited to by fire, flood or acts of terrorism.

### **14 SOFTWARE**

- 14.1 Should we supply third-party software to you as part of any order (whether alone or bundled with any hardware), then your use of that third-party software will be governed by an end user licence between yourself and the licensor of that third-party software which will be provided with the software. You acknowledge that you will not become the owner of any intellectual property rights (which include, but are not limited to, copyrights, patents and trademarks) in any third-party software which we provide to you.
- 14.2 You should read the terms of any end user licence carefully prior to opening, installing and / or downloading any third-party software (as appropriate) as by doing so, you are agreeing to be bound by the terms of that end user licence. **Please note, once software has been opened, downloaded and / or installed by you, you may not return it to us (regardless of whether it was supplied alone or bundled with any hardware). Where you purchase third-party software from us as a consumer, you will lose any right you may have to return software pursuant to the Distance Selling Regulations once you open, download and / or install such software.**

### **15 RESERVATION OF INTELLECTUAL PROPERTY RIGHTS**

- 15.1 The Planet Enterprises Limited name and all other names, images, pictures, logos and icons identifying us, or our goods and professional services are, unless otherwise stated, trademarks or trade names of us in the UK and other countries. Other product and company names used by us may be trademarks of their respective owners.

## **16 INDEMNITY**

- 16.1 You agree to fully indemnify, defend and hold us harmless immediately on demand, from and against all claims, liability, damages, losses, costs and expenses including reasonable legal fees and / or settlement sums reasonably suffered, incurred or paid by us arising out of any breach of these Terms and Conditions by you.

## **17 TERMINATION**

- 17.1 Without prejudice to any rights or remedies which may have accrued to us or you, we shall be entitled to terminate any order placed by you and accepted by us:
- (a) by written notice in the event that you breach any of these Terms and Conditions and, in the case of a breach which is capable of remedy, you fail to remedy the breach in question within 28 days of a request from us to do so. We shall not be liable for the delivery of any goods to you nor for the performance of any professional service during such 28-day period;
  - (b) immediately by written notice in the event that, should you be a corporate entity, there is a change in your control or ownership (as defined by Section 416 of the Income and Corporation Taxes Act 1988 (as amended));
  - (c) immediately in the event that you make any voluntary arrangement with your creditors, become bankrupt, become subject to an administration order or go into liquidation (unless it for the purposes of a bona fide amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed of any of your property or assets or we have reasonable grounds to believe that any of the foregoing occurrences is likely to occur to you; and / or
  - (d) if you are a business, you cease to or threaten to cease to carry on business.

Upon termination for whatever reason, notwithstanding any credit terms which we may have granted you, all sums due from you to us shall immediately become payable.

## **18 NOTICES**

- 18.1 Each notice or communication given under or in relation to this agreement shall be in writing and shall be delivered by hand or sent by special delivery post or email to the other party at its address or email address set out below:

customerservices@planetestream.co.uk

- 18.2 Each such notice shall be deemed to have been served:

- (a) in the case of by hand, special delivery, and email, when actually received; or
- (b) if sent by special delivery mail and returned marked "gone away" or to the like effect, on return of such special delivery mail.

## **19 PRIVACY**

- 19.1 All your personal information is treated as confidential and we operate in full compliance with the GDPR any other applicable privacy regulations and consumer legislation. For more information regarding how we may collect and use personal data, you can read our Privacy Policy by visiting our website at <https://www.planetestream.co.uk/privacypolicy.aspx> .
- 19.2 Neither us nor you shall have the authority to enter into any agreement or make any promise or representation on the behalf of the other.
- 19.3 To help us ensure the best possible service standards, telephone calls may be recorded.

## **20 LAW AND JURISDICTION**

- 20.1 The law of England and Wales will apply to these Terms and Conditions and to any purchase of any goods or professional services from us. The courts of England and Wales shall have exclusive jurisdiction.

## **21 MISCELLANEOUS PROVISIONS**

- 21.1 You may not assign, sub-license or otherwise transfer any of your rights under these Terms and Conditions without our prior written permission.
- 21.2 If any provision of these Terms and Conditions is found to be invalid by any court having competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of these Terms and Conditions, which shall remain in full force and effect.
- 21.3 If you breach these Terms and Conditions and we ignore this fact, we will still be entitled to use our rights and remedies at a later date or in any other circumstances where you breach these Terms and Conditions.
- 21.4 A person who is not a party to these Terms and Conditions shall have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of these Terms and Conditions.
- 21.5 These Terms and Conditions represent the entire agreement between you and us in relation the purchase by you of any goods or professional services from us and supersede all prior agreements, arrangements and undertakings between you and us relating to the purchase by you of goods or professional services from us.
- 21.6 The headings used in these Terms and Conditions are to assist interpretation and shall not affect the construction of these Terms and Conditions.
- 21.7 In these Terms and Conditions, references to the singular shall include the plural (and vice-versa) and references to persons shall include bodies corporate and all other legal entities. References to any statute or statutory provision shall include any renewal or re-enactment.
- 21.8 Nothing contained in these Terms and Conditions shall create a relationship of principle and agent, employer, and employee and / or partnership or joint venture.