

Commercial Terms and Conditions

1. Definitions and Interpretation

The definitions and rules of Interpretation that apply to these Terms are set out in clause 13.

2. Basis of contract

2. 1. The Order constitutes an offer by You to purchase the Services in accordance with these Terms.

2. 2. The Order shall only be deemed to be accepted when We issue a written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2. 3. These Terms apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2. 4. The Quotation shall not constitute an offer, and is only valid for a period of 30 days from its date of issue after which it is deemed withdrawn unless agreed otherwise by Us in writing.

3. Supply of Services

3. 1. We shall supply the Services to You in accordance with the description and on the additional terms set out in the Quotation (as amended under the change control provisions in clause 6) and any terms in the Quotation shall form part of these Terms.

3. 2. We shall use reasonable endeavours to meet any performance dates specified in the Quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3. 3. We reserve the right to amend the scope of the Services 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 We shall notify You of any such amendment.

3. 4. We warrant to You that the Services will be provided using reasonable care and skill.

4. Your obligations

4. 1. You shall:

4. 1. 1. ensure that the description of the Services in the Quotation are complete and accurate as at the date of the Contract;

4. 1. 2. promptly co-operate with Us in all matters relating to the Services;

4. 1. 3. promptly provide Us with such information and materials as We may reasonably require in order to supply the Services, and ensure that such information is complete and accurate and any materials are sufficient in all material respects; and

4. 1. 4. comply with any additional obligations as set out in the

4. 2. If Our performance of any of Our obligations under the Contract is prevented or delayed by any act or omission by You or failure by You to perform any relevant obligation (**Customer Default**):

4. 2. 1. without limiting or affecting any other right or remedy available to Us, We shall have the right to suspend performance of the Services until You remedy the Customer Default, and to rely on the Customer Default to relieve Us from the performance of any of Our obligations in each case to the extent the Customer Default prevents or delays Our performance of any of Our obligations under the Contract;

4. 2. 2. We shall not be liable for any costs, expenses or losses sustained or incurred by You arising directly or indirectly from Our failure or delay to perform any of Our obligations as set out in this clause 2; and

4. 2. 3. You shall reimburse Us, on written demand, for any costs, expenses or losses sustained or incurred by Us arising directly or indirectly from the Customer Default.

5. Charges, payment and cancellation

5. 1. We shall invoice You for the Charges in the manner set out in the Quotation.

5. 2. Unless otherwise stated in the Quotation, You shall pay each invoice submitted by Us:

5. 2. 1. within 14 days of the date of the invoice; and

5. 2. 2. in full and in cleared funds to a bank account nominated in writing by Us, and

time for payment shall be of the essence of the Contract.

5. 3. All amounts payable by You 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 Us to You, You shall, on receipt of a valid VAT invoice from Us, pay to Us such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5. 4. If You fail to make a payment due to Us under the Contract by the due date then, without limiting Our remedies under clause 10, You shall pay interest on the overdue sum at the rate of

4% above the National Westminster Bank plc base rate from time to time, and at 4% a year for any period when that base rate is below 0%.

5. 5. 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).

5. 6. If You need to cancel the Contract before We have begun to collect relevant data as part of the Services then You must notify Us of this in writing.

5. 7. If You provide Us with notice under clause 5.6 then You are still liable to pay Us the Charges in full unless We otherwise agree this with You but in any event the minimum that We shall always charge You in such circumstances shall be the full costs and expenses of any and all preparatory work.

6. **Change control**

6. 1. Either party may propose changes to the scope or execution of the Services, but no proposed changes shall come into effect until a relevant **Change Order** has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect those changes will have on:

6. 1. 1. the Services;

6. 1. 2. the Charges;

6. 1. 3. the timetable for the Services; and

6. 1. 4. any terms of this agreement.

6. 2. If You wish to make a change to the Services:

6. 2. 1. You shall notify Us, providing as much detail as is reasonably necessary to enable Us to prepare the draft Change Order; and

6. 2. 2. We shall, within 10 Business Days of receiving Your request at clause 2(a), provide a draft Change Order to You.

6. 3. If We wish to make a change to the Services, We shall provide a draft Change Order to You.

6. 4. If We submit a draft Change Order in order to comply with any applicable safety or regulatory requirements and such changes do not affect the nature, scope of, or charges for the Services, You shall not unreasonably withhold or delay consent to it.

6. 5. If the parties:

6. 5. 1. agree to a Change Order, they shall sign it and that Change Order shall amend this agreement; or

6. 5. 2. are unable to agree a Change Order then the change shall not be effective.

7. Intellectual property rights

7. 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 You) shall be owned by Us unless We otherwise agree this with You and this is set out in the Quotation.

7. 2. You grant to Us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by You to Us for the term of the Contract for the purpose of providing the Services to You.

8. Data protection

8. 1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 8, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the Data Protection Legislation from time to time in force in the UK and any other law that applies in the UK.

8. 2. The parties acknowledge that for the purposes of the Data Protection Legislation, we are the data processor and the client is the data controller unless stated otherwise.

8. 3. Without prejudice to the generality of clause 2, We shall, in relation to any personal data processed in connection with the performance by Us of Our obligations under the Contract:

8. 3. 1. process that personal data only as required by Applicable Laws;

8. 3. 2. ensure that We have 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);

8. 3. 3. ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and

8. 3. 4. have a discretion to transfer any personal data outside of the European Economic Area provided that the following conditions are fulfilled:

- 8. 3. 4. 1. We have provided appropriate safeguards in relation to the transfer;
 - 8. 3. 4. 2. the data subject has enforceable rights and effective legal remedies; and
 - 8. 3. 4. 3. We have complied with Our obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred,
 - 8. 3. 5. notify You without undue delay on becoming aware of a personal data breach; and
 - 8. 3. 6. delete personal data and copies of it within a period of 3 months from the end of the Contract unless required by Applicable Law to store the personal data for a longer period.
8. 4. You consent to Us appointing any third-party Sub-Contractor as a third-party processor of personal data under the Contract. We confirm that We have entered or (as the case may be) will enter with the third-party processor into a written agreement to reflect and will continue to reflect the requirements of the Data Protection Legislation. As between You and Us, We shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 8.

9. Limitation of liability: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

9. 1. We have obtained insurance cover in respect of Our legal liability for individual claims not exceeding £10,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover that We have been able to arrange and You are responsible for making Your own arrangements for the insurance of any excess loss.
9. 2. Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 9. 2. 1. death or personal injury caused by negligence;
 - 9. 2. 2. fraud or fraudulent misrepresentation; and
 - 9. 2. 3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
9. 3. Subject to clause 2, Our total liability to You arising under or in connection with the Contract shall not exceed £10,000,000. Our total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.
9. 4. This clause 4 sets out specific heads of excluded loss and exceptions from them:
- 9. 4. 1. subject to clause 2, the types of loss listed in clause 9.4(c) are wholly excluded by the parties, but the types of loss and specific losses listed in clause 9.4(d) are not excluded.
 - 9. 4. 2. if any loss falls into one or more of the categories in clause 4(c) and also falls into a category, or is specified, in clause 9.4(d), then it is not excluded.

9. 4. 3. the following types of loss are wholly excluded:

9. 4. 3. 1. loss of profits

9. 4. 3. 2. loss of sales or business.

9. 4. 3. 3. loss of agreements or contracts.

9. 4. 3. 4. loss of anticipated savings.

9. 4. 3. 5. loss of use or corruption of software, data or information.

9. 4. 3. 6. loss of or damage to goodwill.

9. 4. 3. 7. indirect or consequential loss.

9. 4. 4. the following types of loss and specific loss are not excluded:

9. 4. 4. 1. sums paid by You to Us pursuant to the Contract, in respect of any part of the Services not provided in accordance with the Contract;

9. 4. 4. 2. wasted expenditure;

9. 4. 4. 3. additional costs of procuring and implementing replacements for, or alternatives to, the Services not provided in accordance with the Contract. These include consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials; and

9. 4. 4. 4. losses incurred by You arising out of or in connection with any third-party claim against You which has been caused by the act or omission of Us.

9. 4. 5. We have given commitments as to compliance of the Services with the Quotation in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

9. 4. 6. Unless You notify Us that You intend to make a claim in respect of an event within the notice period, We shall have no liability for that event. The notice period for an event shall start on the day on which You became, or ought reasonably to have become, aware of the event having occurred and shall expire three (3) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

9. 4. 7. This clause 9 shall survive termination of the Contract.

10. Termination

10. 1. 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:

10. 1. 1. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;

10. 1. 2. 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), 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;

10. 1. 3. 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

10. 1. 4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

10. 2. Without affecting any other right or remedy available to Us, We may terminate the Contract with immediate effect by giving written notice to You if:

10. 2. 1. You fail to pay any amount due under the Contract on the due date for payment; or

10. 2. 2. You have a change of Control.

10. 3. Without affecting any other right or remedy available to Us, We may suspend the supply of the Services under the Contract if You fail 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 1(a) to clause 10.1(d), or We reasonably believes that You are about to become subject to any of them.

11. Consequences of termination

11. 1. On termination of the Contract You shall immediately pay to Us all of Our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, We shall submit an invoice, which shall be payable by You immediately on receipt.

11. 2. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or 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.

11. 3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

12. General

12. 1. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

12. 2. **Assignment and other dealings.**

12. 2. 1. We 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.

12. 2. 2. You 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.

12. 3. **Confidentiality.**

12. 3. 1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 3(b).

12. 3. 2. Each party may disclose the other party's confidential information:

12. 3. 2. 1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 3; and

12. 3. 2. 2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12. 3. 3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12. 4. **Entire agreement.**

12. 4. 1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

12. 4. 2. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of 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.

12. 4. 3. Nothing in this clause shall limit or exclude any liability for fraud.

12. 5. **Variation.** Except as set out in these Terms, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12. 6. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12. 7. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

12. 8. Notices.

12. 8. 1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be 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); or sent by fax to its main fax number or sent by email to the address specified in the Quotation.

12. 8. 2. Any notice or communication shall be deemed to have been received:

12. 8. 2. 1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

12. 8. 2. 2. if sent by pre-paid first-class post or other next working day delivery service, at 12 pm on the second Business Day after posting or at the time recorded by the delivery service; and

12. 8. 2. 3. if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

12. 8. 3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12. 9. Third party rights.

12. 9. 1. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

12. 9. 2. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

12. 10. **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 England and Wales.

12. 11. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales 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.

13. Interpretation

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

13. 1. Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges set out in the Quotation.

Commencement Date: the commencement date for the start of the Services set out in the Quotation.

Contract: the contract between Us and You for the supply of Services in accordance with these Terms.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation.

Customer: the person or firm who purchases Services from Us as set out in the Quotation.

Customer Default: has the meaning set out in clause 4.2.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights in data, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.

Order: the Customer's order for Services as set out in the Customer's written acceptance of the Quotation.

Quotation: the quotation for the provision of the Services that We provided to You.

Services: the services supplied by Us to You as set out in the Quotation.

Supplier: Tracsis Traffic Data Limited registered in England and Wales with company number 03896384 or Tracsis Passenger Counts Limited registered in England and Wales with company number 03313714 as appropriate.

Terms: these terms and conditions as amended from time to time in accordance with clause 12.5.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

13. 2. Interpretation:

13. 2. 1. A reference to a statute or statutory provision is a reference to it as it applies at the date of the Contract. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

13. 2. 2. Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

13. 2. 3. A reference to writing or written includes fax and email.

Traffic Surveys

Traffic Counts

Origin-destination surveys

Parking surveys

Vehicle speed surveys

Active travel

Queue surveys

Public transport

Market research

Data Hosting

Conduit Data Hub

Conduit Historical Data

Conduit School Streets

Technology

AI Portal

Digital ANPR

Careers

Payment Information

Survey Vacancies

Contact

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Certification



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[Carbon reduction plan](#)