Standard Terms and Conditions for the Supply of Goods and Services

1. Interpretation

1.1 In these Conditions:

"**virtualDCS**" means virtualDCS Ltd as indicated on the accompanying Purchase Order.

"**Conditions**" means the standard conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between virtualDCS and the Vendor.

"**Contract**" means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services on the Conditions.

"**Deliverables**" means all documents, products and materials developed by Vendor as part of or in relation to the Services;

"**Delivery Address**" means the address stated on the Order.

"**Goods**" means the goods (including any instalment of the goods or any part of them) described in the Order.

"**Order**" means virtualDCS' purchase order to which these Conditions are annexed.

"**Price**" means the price of the Goods and/or the charge for the Services.

"**Vendor**" means the person so described in the Order.

"**Services**" means the services (if any), including any Deliverables, described in the Order.

"**Specification**" includes any plans, drawings, data or other information relating to the Goods or Services.

2. Basis of Purchase

2.1 The Order constitutes an offer by virtualDCS to purchase the Goods and/or acquire the Services subject to the Conditions.

2.2 These Conditions will apply to the Contract to the exclusion of any other terms that Vendor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3 No variation to the Order or these Conditions will be binding unless agreed in writing between the virtualDCS and the Vendor.

3. Specifications

3.1 The quantity, quality and description of the Goods and the Services will be as specified in the Order and/or in any applicable Specification supplied by virtualDCS to the Vendor or agreed in writing by virtualDCS and the Vendor.

3.2 The Vendor will comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services.

3.3 If, as a result of inspection or testing, virtualDCS is not satisfied that the Goods will comply in all respects with the Contract, and virtualDCS so informs the Vendor within 7 days of inspection or testing, the Vendor will take such steps as are necessary to ensure compliance.

4. Price of Goods and Services

4.1 The Price of the Goods and the Services will be as stated in the Order and, unless otherwise stated, will be exclusive of any applicable VAT (which will be payable by virtualDCS subject to receipt of a VAT invoice).

4.2 No increase in the Price may be made without the prior consent of virtualDCS in writing.

5. Terms of Payment

5.1 The Vendor will be entitled to invoice virtualDCS on or at any time after delivery of the Goods or performance of the Services, and each invoice will quote the Order number.

5.2 Unless otherwise stated in the Order, virtualDCS will pay the Price of the Goods and the Services within 30 days after the end of the month of receipt by virtualDCS of a valid invoice or after acceptance of the Goods or Services in question by virtualDCS whichever is the later.

5.3 virtualDCS will be entitled to set off against the Price any sums owed to virtualDCS by the Vendor.

6. Delivery

6.1 The Goods will be delivered to and the Services will be performed at the Delivery Address on the date or within the period stated in the Order.

6.2 If the Goods are to be delivered or the Services are to be performed by instalments, the Contract will be treated as a single contract and not severable.

6.3 virtualDCS will be entitled to reject any Goods delivered which are not in accordance with the Contract without liability.

6.4 The Vendor will supply virtualDCS in good time with any instructions or other information required to enable virtualDCS to accept delivery of the Goods and performance of the Services.

6.5 Where Services are provided pursuant to a Contract, Vendor assigns to virtualDCS, with full title guarantee and free from all third-party rights, all intellectual property rights in the products of the Services, including the Deliverables.

7. Risk and Property

7.1 Risk of damage to or loss of the Goods will pass to virtualDCS upon delivery in accordance with the Contract.

7.2 The property in the Goods will pass to virtualDCS upon delivery, unless payment for the Goods is made prior to delivery when it will pass to virtualDCS once payment has been made and the Goods have been appropriated to the Contract.

8. Warranties

8.1 The Vendor warrants to virtualDCS that the Goods: (a) will be of satisfactory quality and fit for any purpose held out by the Vendor or made known to the Vendor at the time the Order is placed; and (b) will be free from defects in design, material and workmanship; and will correspond with any relevant Specification.

8.2 In providing the Services, the Vendor warrants to virtualDCS that it shall:
   a. co-operate with virtualDCS in all matters relating to the Services, and comply with all instructions of virtualDCS;

b. perform the Services in accordance with good industry practice;
c. use personnel who are appropriately qualified and trained;
d. obtain and at all times maintain all necessary licences and consents;
e. ensure that the Services and Deliverables conform with their Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Vendor by virtualDCS; and
f. ensure that the Deliverables will be free from defects in design, material and workmanship;

8.3 Without prejudice to any other remedy, if the Goods or Services are not supplied or performed in accordance with the Contract, then virtualDCS will be entitled:
a. to require the Vendor to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days; or
b. at virtualDCS' sole option (whether or not virtualDCS has previously required the Vendor to repair the Goods or to supply any replacement Goods or Services) to treat the Contract as discharged by the Vendor's breach and require the repayment of any part of the Price which has been paid.

9. Liability and Indemnity

9.1 The Vendor will indemnify virtualDCS in full against all liability, loss, damages, costs, claims and expenses (including legal expenses) awarded against or incurred by virtualDCS as a result of:
a. breach of any warranty given by the Vendor in relation to the Goods or Services;
b. any claim brought against virtualDCS for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt use or supply of the Goods or the Services, except to the extent that the claim arises from compliance with any Specification supplied by virtualDCS; and
c. any liability, loss, damage, injury, cost or expense sustained by any person or damage in respect of any property, real or personal (whether belonging to virtualDCS or to any other party) to the extent that such liability, loss, damage, injury, cost or expense is caused by, relates to, or arises from the Goods or provision of the Services

9.2 Except for that which cannot be limited by Law, virtualDCS total liability whether in contract, tort or otherwise shall be limited to the Price of the Goods and Services provided under the Order.

9.3 This Clause 9 shall survive termination of the Contract.

10. Termination

10.1 virtualDCS shall be entitled to cancel the Order in respect of all or part of the Goods and/or the Services by giving notice to the Vendor at any time prior to delivery or performance, in which event virtualDCS' sole liability will be to pay the Vendor the Price for the Goods or Services in respect of which virtualDCS has exercised its right of cancellation, less the Vendor's net saving of cost arising from cancellation.

10.2 virtualDCS shall be entitled to terminate the Contract, in whole or in part, without liability to the Vendor if the Vendor Goods and/or Services are not delivered and/or performed by the due date, or if it becomes clear that the Goods and/or Services cannot be delivered by the due date.

10.3 virtualDCS shall be entitled to terminate the Contract without liability to the Vendor by giving notice to the Vendor at any time if the Vendor:

a. commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within seven (7) days after having been notified to do so;

b. goes into liquidation, or has a receiver, administrator or similar officer appointed over all or any part of its assets; or

c. ceases, or threatens to cease, to carry on its business.

10.4 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination.

10.5 On termination of the Contract for any reason, the Vendor shall immediately deliver to virtualDCS all Deliverables whether or not then complete, and return all materials provided to the Vendor by virtualDCS.

11. Confidentiality and Data Protection

11.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted below.

11.2 Each party may disclose the other party's confidential information:

a. 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 11; and

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

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

11.4 Each party undertakes that it shall comply with the Data Protection Act 1998 (the "DPA") and all applicable changes in law, including any subsequent legislation that may amend and/or supersede the DPA (including the General Data Protection Regulation), when performing its obligations under this Contract. The Vendor will not assume any responsibility for determining the purposes for which and the manner in which virtualDCS personal data is processed. Vendor will:

a. process virtualDCS personal data only in accordance with instructions from virtualDCS;

b. unless otherwise requested by virtualDCS, process virtualDCS personal data only to the extent, and in such manner, as is necessary for the performance of the Vendor's obligations under the Contract;

c. implement appropriate, technical and organisational measures to protect virtualDCS personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;

d. notify virtualDCS or any unauthorised or unlawful processing or any accidental loss, destruction, damage, alteration or disclosure of virtualDCS personal data as soon as it becomes aware and keep virtualDCS informed of any related developments;

e. comply with all data protection laws in the processing of virtualDCS personal data; and

f. not process or permit the processing of virtualDCS personal data outside the European Economic Area without virtualDCS' written consent.

12. General

12.1   Vendor will not assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

12.2   Any notice served by either party to the other in relation to these Conditions will be in writing addressed to that other party at its registered office or principal place of business or such other address as may at have been notified to the party giving the notice.

12.3   No waiver by virtualDCS of any breach of the Contract by the Vendor will be considered as a waiver of any subsequent breach of the same or any other provision.

12.4   If any provision of these Conditions is held to be invalid or unenforceable in whole or in part, the remaining provisions will not be affected.

12.5   The Vendor shall not offer, give or agree to give to any person employed by or on behalf of virtualDCS, any gift or consideration of any kind as an inducement or reward for any act in relation to the provision of the Goods and/or Services. Any breach of this condition by the Vendor (or by anyone employed by or acting on its behalf) in relation to the Goods and/or Services will entitle virtualDCS to terminate this Contract with immediate effect and seek damages from the Vendor.

13. Law

13.1   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 the parties submit to the exclusive jurisdiction of the English Courts.