

MAINLINE TERMS AND CONDITIONS FOR THE SALE OF PRODUCTS AND THE PROVISION OF SERVICES (UK AND REST OF THE WORLD)

1. Definitions

1.1 Capitalised terms in this document shall have the meaning set out below:

Active Estate	all Garrison Products (as defined further below) owned by Customer or its Affiliates unless agreed in writing by both Parties to be out of the scope of these Terms and Conditions;
Affiliate	any entity that controls, is controlled by or is under common control with a Party, where "control" means ownership of more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of directors or other managing authority of a Party;
Agreement	the Order (as defined further below) along with the Order Acknowledgement, the present Terms and Conditions (as defined further below), the EULA (as defined further below) and the AUP (as defined further below);
Acceptable Use Policy or AUP	means Garrison's acceptable use policy made available at www.garrison.com/legal , as amended from time to time;
Authorised User	any contact of Customer who has been authorised to engage with Garrison for Services purposes, as notified by Customer to Garrison, subject to the maximum number of contacts set out in Schedule 1;
Business Day	any day from Monday to Friday (inclusive) other than UK bank or public holidays;
Business Hours	09:00 - 17:00 UK time on a Business Day;
Customer	the entity that signs the Order for Products and Services save as otherwise provided under separate written agreement with Garrison;
Documentation	any documentation, in printed, electronic, or other forms (e.g. user manuals, on-line help files, technical manuals, and any other materials) provided by Garrison to Customer, that describe the installation, operation, use or technical specifications of the Software or Hardware or in any way relating to the Products;
Effective Date	the date on which the Agreement comes into force as set out in Section 2.3;
End User Licence Agreement or EULA	the end user agreement setting out the terms under which the Software is licensed to Customer either through: (i) the licence agreement provided with the Hardware in respect of the Software incorporated therein; or (ii) the license agreement provided with the Software installed by Customer, in each case as may be amended by Garrison from time to time. Copies of the current EULAs are available at www.garrison.com/legal ;
Excluded Maintenance	takes the meaning as set out in Paragraph 3.4 of Schedule 1;
Fees	the fees payable by Customer for the Products and the Services as set out in the Order;
Field Replaceable Unit or FRU	fans, power supplies or other components of the Hardware that are easily replaceable by Customer with Garrison's instructions;
Force Majeure Event	takes the meaning as set out in Section 19.1;
Garrison	the Garrison entity indicated in the footer of these Terms and Conditions;
Good Industry Practice	the exercise of that degree of skill, diligence, prudence, and foresight, which would reasonably and ordinarily be expected from a skilled and experienced technology company, engaged in the same type of undertaking in relation to activities of the same or similar scale and character;
Good Working Order	the Hardware is fully working, and all operational features are available;
Hardware	the hardware appliances specified in the Order that Garrison sells to Customer under the Agreement;

Intellectual Property Rights	copyright and related rights, patents, rights in inventions, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, 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;
Level of Support	the level of support and maintenance services (either Standard or Premium) as set out in the Order, and as further described in Section 2 of Schedule 1;
Order	the Garrison order form signed by Customer and sent to Garrison;
Order Acknowledgement	the email sent by Garrison to Customer confirming that Garrison has received the Order from Customer, and that Garrison accepted the Order, including any conditions Garrison attaches to such acceptance;
Party	each of Customer and Garrison, and "Parties" shall mean both collectively;
Product(s)	all or any of the Hardware and Software (as appropriate) as specified in the Order;
Product Training	the Product training to be delivered by Garrison as set out in the Order in accordance with Schedule 2 and Appendix A thereto;
Professional Services	the professional services as set out in the Order to be delivered by Garrison in accordance with Schedule 2;
Quote	the written quote for Products and Services issued by Garrison to Customer referencing the present Terms and Conditions associated with an Order;
Repaired Replaced or RMA	Appliance the repaired or replacement Hardware appliance provided by Garrison to Customer in accordance with the RMA process set out in Schedule 1;
Roadmap Acceleration	the acceleration of certain product and/or solution development, including product and/or solution functionalities, features or upgrades undertaken by Garrison for Customer under an Order and provided that such development is included in Garrison's product and/or solution roadmap;
Service(s)	the Support Services (as further defined below), any Professional Services, Product Training or Roadmap Acceleration to be provided by Garrison to Customer under an Order;
Service Levels or SLA	the service levels specified in Schedule 1;
Schedule 1	the schedule 1 for Mainline Support Services (UK and Rest of the World) available on www.garrison.com/legal , as amended from time to time;
Schedule 2	the schedule 2 for Professional Services and Product Training (UK and Rest of the World) available on www.garrison.com/legal , as amended from time to time;
Software	the software, including any open source and third-party software incorporated in the Hardware or provided by Garrison to be installed by Customer, as specified in the Order and that is licensed to Customer by Garrison under this Agreement in accordance with the terms of the EULA;
Special Terms	the Order specific exceptions to these Terms and Conditions agreed between the Parties and expressly set out in the "Special Terms" section of the Order;
Support Certificate	the certificate of support and maintenance issued by Garrison to Customer setting out the Support Effective Date for the Hardware delivered to Customer;
Support Effective Date	the date stated in the Support Certificate issued upon delivery of the Hardware to Customer;
Support Services	the support and maintenance services described in Schedule 1 to be provided by Garrison to Customer in relation to the Products in accordance with the Agreement;
Support Term	the term of duration of the Support Services set out in the Order and commencing on the Support Effective Date;

Terms and Conditions	the present mainline terms and conditions for the sale of Products and provisions of Services (UK and Rest of the World) by Garrison to Customer, including Schedule 1, Schedule 2, the EULA and the AUP;
Update	a software download provided at no additional charge from Garrison that provides fixes for features that do not work as intended, or adds minor software enhancements or compatibility improvements;
Upgrade	a new version of a Software Product, that offers a significant change or major improvement over Customer's current version;
Warranty	takes the meaning as described in Section 3.2; and
Warranty Period	takes the meaning as described in Section 3.3.

- 1.2 Unless this context otherwise requires (i) 'including' and similar words do not imply any limit; (ii) the terms 'days' refer to calendar days unless expressly stated otherwise; (iii) any obligation on any Party not to do or to omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done; and (iv) use of section headers in these Terms and Conditions is for convenience only and will not have any impact on the interpretation of any provision.

2 Contract Formation

- 2.1 These Terms and Conditions apply to any purchase and any use of Products and Services by Customer.
- 2.2 These Terms and Conditions neither commit Customer to place, nor require Garrison to accept, an Order.
- 2.3 An Order shall be treated as an offer by Customer to contract with Garrison and shall become binding on Garrison upon written acceptance of the Order as stated in the Order Acknowledgement ("**Effective Date**").
- 2.4 Where Customer submits its own ordering document Garrison may at its sole discretion decide whether to accept such document instead of an Order.
- 2.5 No pre-printed or similar terms and conditions contained in, referred to in, or purported to be incorporated in any Customer ordering document, invoice, or other document delivered or made available by Customer to Garrison shall be applicable, even if signed by the Parties and in case of conflict these Terms and Conditions shall prevail.
- 2.6 Exceptions to these Terms and Conditions may be agreed between the Parties in relation to a specific Order, in which case such exceptions shall only be enforceable where expressly captured in the Special Terms section of the Order and provided that express reference is made to the provisions of these Terms and Conditions from which the Parties agree to deviate.
- 2.7 In case of conflict between any of the provisions contained in these Terms and Conditions, and any other provisions contained in the attached Schedule 1, Schedule 2, the Order, the EULA or the AUP, the following order of precedence shall apply:
- first any Order specific exceptions to the Terms and Conditions as set out in the Special Terms section of the Order in accordance with Section 2.6;
 - then the provisions contained in the rest of the Order;
 - then the EULA as far as use of the Products is concerned;
 - then the provisions contained in the main body of these Terms and Conditions;
 - then the provisions contained in Schedule 1 as far as the Support Services are concerned; or in Schedule 2 as far as the Professional Services or Product Training are concerned; and
 - finally, the provisions contained in the AUP.

3 Support Services and Warranty

- 3.1 In exchange for the payment of the Fees for Support Services, Garrison shall provide Customer with the Support Services for the Support Term as described in Schedule 1. Garrison will use its reasonable endeavours to comply with the Service Levels applicable to the Level of Support purchased by Customer, though given the unknown nature of the type or recurrence of the fault, compliance by Garrison with the Service Levels cannot be assured.
- 3.2 Where Customer informs Garrison that the Hardware is malfunctioning, has failed, or is otherwise not in Good Working Order, Garrison shall either: (i) deploy FRUs (if applicable) accompanied with instructions on how to replace the faulty component(s); or (ii) seek a return of the Hardware for repair/replacement and ship an RMA to Customer; in either case, in accordance with the processes and Service Levels set out in Schedule 1 (the "**Warranty**").
- 3.3 The Warranty shall commence on the Support Effective Date and continue for a period of six (6) months (the "**Warranty Period**").

- 3.4 For so long as Customer maintains the Products under a contract for Support Services and is current with the payment of the Fees for the Support Services Garrison will provide Hardware support above and beyond the Warranty.
- 3.5 The Support Services include replacement parts for all Hardware elements (including FRUs).
- 3.6 Save for exceptional circumstances (such as a global shortage of parts not attributable to Garrison's own procurement processes) Garrison will notify Customer in writing of any end of support for the relevant Hardware at least six (6) months before expiry of a term of three (3) years from the original Support Effective Date for the relevant Hardware.
- 3.7 Except for the express representations and warranties stated in this Section 3, Garrison makes no additional representation, warranty term or condition of any kind whether express, implied (either in fact or by operation of law), or statutory, as to any matter whatsoever to the fullest extent permitted by law. Garrison expressly disclaims all implied warranties of merchantability, fitness for a particular purpose, quality, accuracy, and non-infringement. Garrison does not warrant against interference with the enjoyment of the Products. Garrison does not warrant that the Products are error-free or that operation of the Products shall be secure or uninterrupted. Garrison does not warrant that any information provided through the Products is accurate or complete or that any information provided through the Products shall always be available. Garrison exercises no control over and expressly disclaims any liability arising out of or based upon the results of Customer's use of the Products.
- 3.8 Where an Order includes Roadmap Acceleration, any and all Intellectual Property Rights in the resulting product of the Roadmap Acceleration and any Intellectual Property Rights in any materials created or developed in connection with the Roadmap Acceleration shall be owned by, and remain fully vested in, Garrison.

4 Delivery of the Products

- 4.1 Garrison shall use reasonable endeavours to deliver the Products by the delivery date as set out in the Order however, time shall not be of the essence.
- 4.2 Unless otherwise expressly agreed in writing between the Parties, all deliveries shall be made Delivered at Place (DAP) (INCOTERMS 2020) to Customer in accordance with this Agreement. Garrison expressly reserves the right to effect delivery of Products ordered in any number of separate shipments, and the modes of transport and carriers shall be decided at Garrison's discretion.
- 4.3 Title shall pass to Customer upon receipt by Garrison of full payment of the Fees.

5 Use of the Products

- 5.1 Customer shall use the Products and Documentation in compliance with all applicable laws and regulations.
- 5.2 Garrison grants to Customer a limited right to use the Products and Documentation under this Agreement. Customer will not have any rights to the Products or Documentation not expressly granted to Customer in accordance with this Agreement.
- 5.3 Unless otherwise expressly provided in a separate written agreement between the Parties (e.g. reseller agreement), Customer shall at all times use the Products solely for its internal business purposes.
- 5.4 Garrison grants Customer a limited right to use the Products and Documentation under this Agreement. Customer shall not have any rights to the Products or Documentation not expressly granted to Customer in this Agreement.
- 5.5 Subject to the terms of this Agreement, Garrison grants Customer and its Authorised Users:
- a) a perpetual, worldwide, non-exclusive, personal, revocable license without right of sublicense to use the object code versions of the Software.
 - b) a limited, worldwide, non-exclusive, personal, revocable licence, without right of sublicense, during the Term to reproduce, without modification, and internally use a reasonable number of copies of the Documentation solely in connection with use of the Services in accordance with this Agreement.
- 5.6 Unless otherwise explicitly provided in this Agreement or a separate written agreement between the Parties or as may be expressly permitted by applicable law, Customer shall not, and shall not permit or authorise third parties to:
- a) rent, lease, or otherwise permit third parties to use the Products or Documentation;
 - b) use the Products or Services to provide services to third parties (e.g. as a service bureau);
 - c) use the Products or Services for any benchmarking activity or in connection with the development of any competitive product; nor
 - d) circumvent or disable any security or technological features or measures of the Products.
- 5.7 Customer shall use all reasonable endeavours to prevent any unauthorised use of the Products and Documentation and immediately notify Garrison in writing of any actual or suspected unauthorised use that comes to Customer's attention. If any unauthorised use occurs as a result of access to the Products directly or indirectly attributable to Customer, Customer shall take all steps reasonably necessary to immediately terminate the unauthorised use. Customer shall cooperate and assist with any actions taken by Garrison to prevent or terminate unauthorised use of the Products or Documentation.

- 5.8 If Customer provides any feedback to Garrison concerning the functionality and performance of the Products (including identifying potential errors and improvements), Customer hereby assigns to Garrison all right, title, and interest in and to the feedback, and Garrison shall be free to use the feedback without any payment or restriction. Any such feedback from Customer shall be considered as Garrison Confidential Information and treated accordingly.

6 Garrison's Obligations

- 6.1 In exchange for Customer's payment of the Fees, Garrison shall provide the Products and Services to Customer in accordance with this Agreement and Good Industry Practice.
- 6.2 Garrison shall ensure that its staff engaged in the provision of the Services to Customer are suitably qualified, skilled, experienced, and trained in the work which they are to perform and will at all times carry out the Services in a workmanlike and professional manner.
- 6.3 Garrison alone shall be responsible for the supervision, direction, control, wages, taxes, national insurance, and benefits of its staff. Garrison assumes full responsibility for their acts and omissions and acknowledges that they are not employees or agents of Customer.
- 6.4 Time shall not be of the essence regarding Garrison's obligations under this Agreement.
- 6.5 Garrison will use reasonable endeavours to comply with the Service Levels, though given the unknown nature of the type or recurrence of the fault, compliance by Garrison with the Service Levels cannot be assured.

7 Customer's Obligations

- 7.1 Customer shall:
- a) pay the Fees at the time and in accordance with these Terms and Conditions;
 - b) comply with these Terms and Conditions, including the requirements set out in Schedule 1 and Schedule 2;
 - c) provide a suitable installation environment for the Products that meets the standards provided by Garrison;
 - d) provide Garrison with a list of Authorised Users. Garrison will only respond to tickets or contact raised by such Authorised Users;
 - e) co-operate with Garrison in any manner reasonably required by Garrison in order to carry out the Services, including provision of information and data;
 - f) report any suspected bugs or faults in the Hardware or Software to Garrison in a timely manner, and in accordance with the ticketing processes set out in Schedule 1;
 - g) follow Garrison's procedures when requesting the Services;
 - h) provide Garrison with reasonable access to all necessary personnel to answer questions or resolve problems reported by Customer regarding the Products;
 - i) as soon as reasonably practicable, implement all Upgrades and Updates provided by Garrison under these Terms and Conditions;
 - j) provide sufficiently stable and reliable means of communication via phone, web, or email between Customer and Garrison to enable Garrison to provide the Services; and
 - k) use reasonable endeavours to resolve internally any support questions prior to requesting the Services pursuant to these Terms and Conditions.
- 7.2 Customer acknowledges and agrees that failure to have any or all information or access available as needed by Garrison in order to provide the Services may result in delays in Garrison's response; may hinder Garrison's ability to perform the Services; and/or may cause incorrect fulfilment. Garrison will not be responsible for any such delays or inability to perform (unless due to causes attributable to Garrison).
- 7.3 Customer shall maintain the same Level of Support (as described in Schedule 1) on the entirety of Customer's Active Estate throughout the Support Term. Where an Order for Support Services has lapsed and is subsequently renewed, the renewal Order shall be backdated to the expiry date of the Support Services as well as containing a commitment to the upcoming year. Customer shall be responsible for the payment of an additional one-off fee equal to 25% of the annual Fees for Support Services per Hardware appliance. Such fee will include Garrison administrative overheads for reinstating support and ensuring the Products are in a known supported configuration. Should Customer fail to do so, Garrison may reject or suspend any new Order for Products or Services. Notwithstanding the foregoing, Garrison shall not be obliged to provide Services on Products (i) that have been deployed or redeployed outside of the jurisdiction of the original delivery; or (ii) unless contrary to applicable law, that were purchased second-hand or refurbished other than through a Garrison approved supplier.
- 7.4 If Customer no longer has a use for Hardware purchased from Garrison and intends to decommission it, Customer may notify Garrison in writing to request disposal of such Hardware. Subject to Customer returning the decommissioned Hardware to Garrison at Customer's own costs, Garrison agrees to dispose of the returned Hardware in accordance with applicable electrical and electronic equipment waste laws.

8 Fees and Payment Terms

- 8.1 Save as otherwise agreed and expressly set out in the Special Terms section of the Order:
- a) all Fees will be invoiced on acceptance of the Order by Garrison; and
 - b) all invoiced Fees shall be payable within thirty (30) days of issue of the invoice by Garrison.
- 8.2 Garrison reserves the right to review the Fees and may increase the Fees in line with the Consumer Price Index (CPI) published by the Office for National Statistics (or if the index no longer exists such other measure of national inflation that Garrison may determine), for the previous twelve (12) months.
- 8.3 Any amount not paid when due shall be subject to finance charges equal to 1.5% of the unpaid balance per month determined and compounded daily from the date due until the date paid for (or, if lower, shall be the highest rate permitted by law). Customer shall reimburse any costs or expenses (including, but not limited to, reasonable legal fees) incurred by Garrison to collect any amount that is not paid when due.
- 8.4 Amounts due from Customer under this Agreement may not be withheld or offset by Customer against amounts due to Customer for any reason. All amounts payable under this Agreement are denominated in the currency specified in the Quote, and Customer shall pay all such amounts in the currency specified, free of currency exchange costs, bank charges, withholdings or deductions.
- 8.5 If the Customer in good faith disputes any portion of the Fees contained in an invoice, Customer shall pay the undisputed portion of the invoice on the due date in full and submit a documented claim for the disputed amount prior to the due date. As a minimum such documented claim shall set out the amount in dispute, the reason for the dispute and provide such evidence as shall be reasonably necessary to support the dispute. The Parties shall negotiate in good faith to resolve the dispute, provided that if the dispute cannot be resolved within thirty (30) days of the date of the invoice, either Party may institute legal proceedings. If Customer does not submit a documented claim prior to the due date for payment of the invoice, Customer waives all rights to dispute the invoice.
- 8.6 All Fees under this Agreement are exclusive of Value Added Tax (VAT) or any similar indirect or sales, use or excise taxes that may be applicable. If any such sales tax is chargeable by Garrison, this shall be added to the agreed price (by way of separate invoice, if those fees have already been invoiced) and shall be paid in addition by Customer. Other than net income taxes imposed on Garrison, Customer shall bear all taxes, duties, and other governmental charges (collectively, "**Taxes**") resulting from this Agreement. Customer shall pay any additional Taxes as are necessary to ensure that the net amounts received by Garrison after all such Taxes are paid are equal to the amounts that Garrison would have been entitled to in accordance with this Agreement as if the Taxes did not exist.
- 8.7 Upon Customer's request, Garrison may agree to invoice an Affiliate of Customer and such agreement shall be subject to Customer remaining liable for any non-payment by the Affiliate.

9 Term, Suspension and Termination

- 9.1 The Agreement shall commence upon the Effective Date and continue for the Support Term, unless terminated earlier in accordance with the provisions of this Agreement.
- 9.2 In advance of the expiry of the Support Term, Garrison will send Customer a new Quote for the proposed renewal.
- 9.3 If Customer commits a material breach and the breach cannot be remedied or Customer fails to remedy the breach within thirty (30) days of Garrison's written notification, Garrison may terminate the Agreement with immediate effect upon written notice to Customer.
- 9.4 Without limitation to any of its other rights or remedies, Garrison may suspend delivery of any Products or provision of any Services with immediate effect upon written notice to Customer: a) if Customer fails to timely pay any Fees and until receipt by Garrison of all amounts due; b) in case of breach of the EULA or the AUP; c) in any other case where Garrison is entitled to terminate the Agreement.
- 9.5 Either Party may terminate this Agreement by notice in writing with immediate effect where Garrison or Customer: (i) passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for an administration order in relation to it or any Party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed, or the court makes a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge; or (ii) is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or (iii) any similar event occurs under the law of any other jurisdiction.
- 9.6 If this Agreement is terminated for any reason, (i) Customer shall pay to Garrison any Fees or other amounts that have accrued prior to the date of the termination, (ii) any and all liabilities accrued prior to the date of the termination shall survive.
- 9.7 Any provision of these Terms and Conditions that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect, including but not limited to this Section 9.7 and Section 3.7 (disclaimer of warranties and representations), Section 5.1 (use in compliance with

the law), Section 5.6 (use restrictions), Section 8.5 (disputed invoices), Section 9.5 (termination for insolvency events), Section 10 (Compliance with Laws; Export Control), Section 12 (Limitation of Liability); Section 13 (Customer Indemnification); Section 14 (Intellectual Property Infringement); Section 15 (Procedure for Managing Claims); Section 16 (Confidentiality); Section 17 (Publicity); Section 19 (Force Majeure), Section 20 (Entire Agreement), Section 21 (Miscellaneous) and Section 23 (Governing Law and Dispute Resolution).

10 Compliance with Laws; Export Control

- 10.1 Customer shall comply with all applicable laws regarding use of the Products. Customer shall not engage in any illegal activity in any relevant jurisdiction and acknowledges that Garrison reserves the right to notify appropriate law enforcement in the event of such illegal activity.
- 10.2 Customer agrees to comply fully with all applicable export laws, restrictions, and regulations to ensure that the Products and any technical data related thereto are not exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by such laws and regulations:
- a) **Termination if contract affected by sanctions**

Garrison shall be entitled to terminate this Agreement with immediate effect if Restrictive Sanctions measures adopted by the United Nations or implemented by the United Kingdom, European Union, a European Union Member State ("**Member State**"), or the United States, directly or indirectly, affects the ability of the Parties to perform their duties; "**Restrictive Sanctions**" means restrictive sanctions measure adopted by the United Nations or implemented by the United Kingdom, European Union, a Member State or the United States;
 - b) **Warranty for economic sanctions and for end-use controls**

Customer warrants and represents to Garrison that (i) the performance of their duties shall not result in any funds, economic resources, or wider benefits being made available, directly or indirectly, to any individual, entity, or body designated under Restrictive Sanctions and (ii) it shall not sell, export, transfer, re-export, or re-transfer any Software which may be intended for a "**Relevant End-use**" unless prior authorisation by a competent authority has been granted. A "**Relevant End-use**" includes: military use; or use in connection with chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons; or use in connection with Iran's enrichment-related, reprocessing, or heavy water-related activities;
 - c) **Cooperation with compliance**

Where Garrison is required by a competent authority to provide records and/or information, Customer upon request by Garrison, shall promptly provide Garrison with all information, pertaining to the particular end users, the particular destinations and particular use of the Products;
 - d) **Indemnity for actions by counterparty**

Customer shall indemnify and hold harmless Garrison from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance of Customer with (i) Section 10.2(b) above or (ii) with Restrictive Sanctions and shall compensate Garrison for all losses and expenses resulting thereof.
- 10.3 The Parties agree that the Products are classified as dual-use items and are therefore subject to export controls.

11 Data Protection

- 11.1 In this Section "**Data Protection Legislation**" means (i) the Data Protection Act 2018 (as amended or re-enacted from time to time) and (ii) the United Kingdom General Data Protection Regulation, Retained Regulation (EU) 2016/679 (as amended or re-enacted from time to time) ("**UK GDPR**"). The Parties acknowledge that for the purposes of the Data Protection Legislation:
- a) Customer is the Data Controller and Garrison is the Data Processor of any Personal Data processed under this Agreement (where "**Data Controller**", "**Data Processor**" and "**Personal Data**" have the meanings as defined in the Data Protection Legislation).
 - b) "**Agreed Purpose**" means for each Party to meet their respective obligations as set out in this Agreement (including but not limited to the supply of Products); to comply with a legal obligation that each Party is subject to; and where it is necessary for the legitimate interest of a Party (or those of a third party) where the Data Subjects' (as defined in the Data Protection Legislation) interests or fundamental rights do not override those interests.
- 11.2 The Parties shall comply with all applicable requirements of the Data Protection Legislation.
- 11.3 Customer warrants that it has all necessary legal basis and notices in place to enable the lawful transfer and processing of the Personal Data by Garrison which it has obtained in the course of its business with Customer (including, without limitation, the provision of Products under this Agreement).

- 11.4 Each Party warrants that it shall only use Personal Data for the Agreed Purpose and, Garrison shall whenever required in the ordinary course of business, be entitled to pass such Personal Data on to its suppliers.

12 Limitation of Liability

- 12.1 In no event shall Garrison or its suppliers, agents, or distributors be liable for (i) loss of revenue; (ii) loss of actual or anticipated profits; (iii) downtime costs; (iv) loss of contracts; (v) loss of the use of money; (vi) loss of anticipated savings; (vii) loss of business; (viii) loss of opportunity; (ix) loss of goodwill; (x) loss of reputation; (xi) loss of, damage to or corruption of data; or (xii) any indirect or consequential loss and such liability is excluded whether it is foreseeable, known, foreseen, or otherwise. For the avoidance of doubt, Section 12.1(i)-(xi) apply whether such losses are direct, indirect, consequential or otherwise and regardless of the theory of liability or whether or not Garrison was advised of the possibility of such damage or loss.
- 12.2 In no event shall Garrison's total liability arising out of or relating to this Agreement, from all claims or causes of action and under all theories of liability, exceed in aggregate the total payments actually made by Customer to Garrison for the Products and Services during the twelve (12) month period prior to any such claim or cause of action or two hundred and fifty thousand pounds sterling (£250,000 GBP) whichever is greater.
- 12.3 Nothing in this Agreement shall limit or exclude liability for: (i) death or personal injury caused by the negligence of Garrison or any of its employees or agents; or (ii) fraud or fraudulent misrepresentation; or (iii) any other matter which cannot, as a matter of law, be excluded or limited.
- 12.4 Each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages is to allocate the risks of this Agreement between the Parties. This allocation is reflected in the pricing offered by Garrison to Customer and is an essential element of the basis of the bargain between the Parties. Each of these provisions is severable and independent of all other provisions of this Agreement.

13 Customer Indemnification

- 13.1 In this Section "**Associates**" means officers, directors, employees, consultants, affiliates, subsidiaries and agents, and a "**Claim**" is any claim, demand, suit, loss, damage, liability, cost or expense (including reasonable professional fees and costs as incurred). Customer shall indemnify, defend, and hold harmless, Garrison and its Associates from and against any Claim directly or indirectly attributable to any third party claim or administrative criminal proceeding arising out of or relating to (i) Customer's unauthorised use of, or misuse of, the Products; (ii) Customer's violation of any part of these Terms and Conditions, any representation, warranty, or agreement referenced in these Terms and Conditions, or any applicable law or regulation; (iii) Customer's violation of any third party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right (including under the Data Protection Regulations); or (iv) any dispute or issue between Customer and any third party.

14 Intellectual Property Infringement

- 14.1 Garrison shall defend, at its expense, any third-party action or suit brought against Customer alleging that use of the Products infringes or misappropriates the third party's patent, copyright, trademark, or trade secret (an "**IPR Claim**"), and Garrison shall pay any costs and damages awarded in final judgment against Customer or agreed to in settlement by Garrison that are attributable to that IPR Claim.
- 14.2 In the event of an IPR Claim, Garrison shall at its sole option and expense either: (i) secure the right to the continued use of the Documentation, Products and/or Services which are the subject of the IPR Claim; or (ii) replace or modify such Documentation, Products and/or Services with non-breaching ones that are functionally equivalent; or (iii) if options (i) and (ii) cannot be accomplished despite Garrison's reasonable efforts, then Garrison may require that Customer returns them to Garrison, in which case, the sole remedy available to Customer is to recover the remaining net book value costs of any Products (as depreciated on a straight-line five (5) year basis, commencing on the date of receipt by Customer of such Product) and the pro-rated value of the pre-paid Services from Garrison.
- 14.3 Garrison's obligations under this Section shall not apply to the extent any Claim results from or is based on (i) modifications to the Product made by a party other than Garrison or its Affiliates; (ii) the combination, operation, or use of the Product with hardware or software not supplied by Garrison, if a Claim would not have occurred but for such combination, operation or use; (iii) failure to use the most recent version or release of the Product; (iv) Garrison's compliance with Customer's explicit or written designs, specifications, or instructions; or (v) use of the Product that is not in accordance with Garrison's published specifications.
- 14.4 The foregoing terms state Customer's sole and exclusive remedy for any IPR Claims.

15 Procedure for Managing Claims

- 15.1 The Party seeking indemnification pursuant to Sections 13 or 14 (the "**Indemnified Party**") shall (i) give the other Party (the "**Indemnifying Party**") prompt notice of the relevant claim; (ii) cooperate with the Indemnifying Party, at the Indemnifying Party's expense, in the defence of that claim and (iii) give the Indemnifying Party sole control over the defence and settlement of that claim. The Indemnified Party shall have the right to participate in the defence with counsel of its choice at its own expense.

16 Confidentiality

- 16.1 **"Confidential Information"** means (i) the existence and contents of this Agreement; and (ii) any information which is designated as 'Confidential', 'Proprietary', or some similar designation or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure of the information including product, business, market, strategic or other information or data relating to the subject matter of this Agreement, or the business or affairs of the disclosing Party. **"Disclosed"** means disclosed whether in writing, orally, or by any or by inspection of tangible objects (including, but not limited to documents, prototypes, samples, plant, and equipment) or by any other means or medium (including but not limited to information retained on all types of medium including written, diagrammatical, software or other storage medium), and whether such disclosure takes place before or after the Effective Date.
- 16.2 Each Party to this Agreement is referred to as the **"Recipient"** when it receives or uses the Confidential Information disclosed by the other Party.
- 16.3 Recipient shall not use any Confidential Information for any purpose not expressly permitted by this Agreement and shall disclose the Confidential Information only to the employees or contractors of Recipient who have a need to know the Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty under this Section 16. Recipient shall protect the Confidential Information from unauthorised use, access, loss, theft or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.
- 16.4 Confidential Information shall not include any information that: (i) is, or becomes publicly known through no action or inaction of the Recipient in breach of this Agreement; (ii) is already in the possession of the Recipient at the time of disclosure by the disclosing Party, as shown by the Recipient's files and records; (iii) is obtained by the Recipient from a third party without a breach of the third party's obligations of confidentiality; or (iv) is independently developed by the Recipient without use of or reference to the disclosing Party's Confidential Information, as shown by documents and other competent evidence in the Recipient's possession.

17 Publicity

- 17.1 No press or public announcements, circulars or communications relating to this Agreement or the subject matter of it shall be made or sent by either of the Parties without the prior written approval of the other Party, such approval not to be unreasonably withheld or delayed.
- 17.2 Notwithstanding Section 17.1, Garrison may refer to Customer in its marketing materials, including, without limitation, on its website and in correspondence with prospective customers.

18 Insurance

- 18.1 Customer will maintain in effect at all times during the performance of this Agreement such insurance policies with a reputable insurance company as it is required to hold under applicable law and such other policies as a prudent business conducting similar operations in the region would maintain, including but not limited to the following type of cover: public liability; products liability; professional indemnity (or errors and omissions cover); employer's liability cover. Coverage limits will be sufficient to cover Customer's liabilities under this Agreement.
- 18.2 Customer will provide Garrison copies of such documentation as it is reasonably required in evidence of Customer's compliance with this Agreement.

19 Force Majeure

- 19.1 Except for any payment obligations, neither Party will be liable under the Agreement by reason of any failure or delay in the performance of its obligations under the Agreement caused by a Force Majeure Event. **"Force Majeure Event"** shall mean any cause beyond such Party's reasonable control including, without limitation, acts of God or public enemy, civil war, insurrection or riot, fire, flood, explosion, earthquake, labour dispute causing cessation slowdown or interruption of work, epidemic, pandemic, governmental response to infectious disease, national emergency, act or omission of any governing authority or agency thereof; or inability after reasonable endeavours to procure equipment, data or materials from suppliers (each a Force Majeure Event).
- 19.2 Where a Force Majeure Event prevents delivery by Garrison, Garrison will have the right, at its option, without any penalty or liability, to terminate all or any part of the Agreement or to reschedule a delivery within a reasonable time.
- 19.3 In case of a Force Majeure Event installation of Upgrades may be required during the Support Term to maintain full compatibility across the Active Estate and Garrison may, at its option, without any penalty or liability, require Customer to install such Upgrades at any time.

20 Entire Agreement

- 20.1 This Agreement 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. Each Party acknowledges that in entering into this Agreement 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 this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

21 Miscellaneous

- 21.1 Each Party represents and warrants to the other that: (i) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; and (ii) no authorisation or approval from any third party is required in connection with such Party's execution, delivery, or performance of this Agreement.
- 21.2 Customer may not assign or transfer this Agreement or any of its rights, duties, or obligations hereunder, by operation of law or otherwise, without Garrison's prior written consent, such consent not to be unreasonably withheld or delayed.
- 21.3 Garrison shall have the right to assign or transfer this Agreement or any interest herein (including rights and duties of performance) to any entity, at any time, and without notice. Garrison may utilise subcontractors or other third parties to perform its duties under this Agreement so long as Garrison remains liable for all of its obligations under this Agreement.
- 21.4 This Agreement shall bind and inure to the benefit of the Parties and their successors and permitted assigns.
- 21.5 If any provision of this Agreement is found to be illegal, unenforceable, or invalid the provision shall, to the extent required, be severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect.
- 21.6 The waiver by either Party of any breach of any provision of this Agreement does not waive any other breach. The failure of any Party to insist on strict performance of any covenant or obligation in accordance with this Agreement shall not be a waiver of such Party's right to demand strict compliance in the future, nor shall the same be construed as a novation of this Agreement.
- 21.7 Garrison shall be and act as an independent contractor (and not as the agent or representative of Customer) in the performance of this Agreement.
- 21.8 All notices, consents, and approvals under or in connection with this Agreement (i) shall be in writing; and (ii) shall be in the English language and shall be sent to the address set forth on the signature page of this Agreement. Unless there is evidence that it was received earlier, a notice is deemed given (i) at the time that the message enters the recipient's email server, if sent by electronic mail, or (ii) two (2) Business Days after posting it, if sent by post.
- 21.9 This Agreement may be amended only by a written document signed by both Parties. The standard terms of any purchase order, receipt, or confirmation of acceptance or similar document submitted by Customer to Garrison shall have no effect.
- 21.10 This Agreement may be executed in two or more counterparts, each of which is deemed to be an original, but all of which constitute the same Agreement.
- 21.11 No person other than a Party to this Agreement has any right (whether under the Contract (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of this Agreement.

22 Governing Law and Dispute Resolution

- 22.1 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity, or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this Section.
- a) The number of Arbitrators shall be one.
 - b) The governing law of this Agreement shall be the substantive law of England and Wales.
 - c) The Arbitrator shall be selected by mutual agreement, or, failing agreement, within fourteen (14) days after a request by one Party to the other, shall be chosen, at the request of either Party, under the Rules of the London Court of International Arbitration.
 - d) The Arbitrator shall be instructed to deliver their determination within thirty (30) days after receiving all information necessary for their determination.
 - e) The seat, or legal place, of arbitration shall be London, United Kingdom.
 - f) The language to be used in the arbitral proceedings shall be English.
 - g) The fees of the Arbitrator shall be borne by the Parties in the proportion as may be determined by the Arbitrator, having regard (amongst other things) to the conduct of the Parties.
- 22.2 Each Party acknowledges that any violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling the other Party to seek injunctive relief in addition to all legal remedies.
- 22.3 Nothing in this Section 23 prevents either Party from seeking or obtaining injunctive relief from a competent court in any jurisdiction in relation to the use and/or disclosure of Confidential Information in that jurisdiction.