

SWIVEL SECURE LIMITED

TERMS & CONDITIONS RELATING TO THE SUPPLY OF HARDWARE EQUIPMENT FOR EVALUATION PURPOSES

1. INTRODUCTION

These Terms and Conditions ("**Terms**") govern the supply by Swivel Secure Limited, a company registered in England with company number 04068905, whose registered office is at Equinox 1, Audby Lane, Wetherby LS22 7RD ("**Swivel**"), of hardware equipment ("**Equipment**") (which shall include, without limitation, hardware appliances) for the purpose of evaluation of Swivel products and/or services. These Terms shall govern the supply and/or use and/or return of such Equipment to the exclusion of any other terms and conditions.

2. SUPPLY AND USE OF EQUIPMENT

- 2.1 Swivel shall supply Equipment to such entity (the "**Recipient**") as it shall in its sole discretion decide. Swivel is under no obligation to supply Equipment to any person or entity. The Recipient shall be solely responsible for compliance with these Terms.
- 2.2 The Equipment is supplied to the Recipient for a specific period of time (the "**Evaluation Period**") and solely for the purpose of an evaluation by the Recipient of Swivel products and/or services. The Recipient agrees not to use the Equipment for any other purpose. The Evaluation Period shall be such length of time as is agreed in writing between Swivel and the Recipient. Such agreement may be evidenced by an email exchange between Swivel and the Recipient where there is clear agreement and confirmation as to the length of the Evaluation Period. The Evaluation Period may be extended by agreement in writing between Swivel and the Recipient and if an extension is agreed, reference(s) to the "Evaluation Period" shall be to such period as extended.
- 2.3 The Equipment remains the property of Swivel until such time as Swivel has been paid in full for such Equipment at the price, (including VAT if applicable) notified to the Recipient. At all times while the Equipment remains the property of Swivel, Swivel may demand the return of such Equipment and the Recipient shall return such Equipment to Swivel immediately upon receipt of a request to return it.
- 2.4 Unless the Equipment has been returned by the Recipient and received by Swivel before the expiry of the Evaluation Period, at the end of the Evaluation Period, Swivel shall be entitled to invoice the Recipient for the Equipment at the price, (including VAT if applicable) notified to the Recipient. If the Equipment has not been received by Swivel by the expiry of the Evaluation Period, the Recipient shall be deemed to have accepted such Equipment and to have authorised Swivel to invoice the Recipient in respect of it.
- 2.5 Equipment shall be returned by the Recipient in its original packaging and free of any defects or damage. If upon receipt of returned Equipment, Swivel determines, acting reasonably, that there is any damage to the Equipment and/or the packaging, the Recipient shall be liable for the full cost of replacing, repairing and/or refurbishing the Equipment and/or packaging (as applicable). The Recipient shall pay Swivel on an indemnity basis for the full costs of taking the required action.
- 2.6 If Swivel receives returned Equipment after the expiry of the Evaluation Period, it may, in its sole discretion, reject the return of such Equipment and invoice the Recipient for such Equipment.

- 2.7 The Recipient is responsible for all return shipping charges.
- 2.8 No warranty in respect of the Equipment is conferred or granted to the Recipient at any time by Swivel. The Equipment is provided by Swivel “as is” and without warranty of any kind or nature, written or oral, express or implied, including, without limitation, the implied warranties of satisfactory quality and fitness for a particular purpose.
- 2.9 In no event will Swivel and/or its directors, officers or employees be liable to or through the Recipient for any direct or indirect loss and/or damages of any kind arising in any way in connection with the Recipient’s receipt and/or use and/or return of the Equipment. Nothing in these Terms shall however exclude or limit Swivel’s liability for death or personal injury caused by its negligence or for fraudulent misrepresentation.

3. **GENERAL**

- 3.1 A failure by Swivel to exercise, or a delay in exercising, any right or remedy under these Terms shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies which Swivel may otherwise have and no single or partial exercise of any right or remedy under these Terms shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy. Any waiver of a breach of any of these Terms shall not be deemed a waiver of any subsequent breach or default and shall not affect the other Terms. If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected thereby.
- 3.2 In interpreting these Terms, the headings shall be ignored.
- 3.3 These Terms shall be governed by and construed in accordance with English Law and the English courts shall have exclusive jurisdiction in connection with any dispute.
- 3.4 Swivel may amend these Terms at any time in its sole discretion.