Swivel Secure's Try and Buy Terms

THESE TRY AND BUY TERMS TOGETHER WITH THE APPLICABLE ORDERING DOCUMENT ("**ORDER**") CONSTITUTE A LEGAL AGREEMENT WHICH CONTAINS THE ENTIRE AGREEMENT BETWEEN THE LICENSEE DETAILED IN THE RELEVANT ORDER ("**LICENSEE**" OR "**YOU**") AND THE COMPANY DETAILED IN THE RELEVANT ORDER ("**COMPANY**" or "**US**"), WITH RESPECT TO THE SUBJECT MATTER DESCRIBED HEREIN (TOGETHER THE "**AGREEMENT**"). COMPANY AND LICENSEE HEREBY AGREE AS FOLLOWS:

1.   Licence and scope of agreement.

In consideration of the payment of any licence fees or related service fees as detailed in the Order ("**Fees**"), You are hereby granted a non-exclusive, non-transferable, non-sub-licensable right to use a preview version of the Company software as specified in the relevant Order (the "**Software**") and/or the Company services as specified in the relevant Order (the "**Services**") as applicable, by Your authorised employees, agents and contractors ("**Users**") solely for trial and evaluation purposes and in connection with Your business, in the Territory detailed in the Order and for the Term (as defined in **clause 2**). You hereby authorise Company to access your computer infrastructure to the extent necessary to set up and configure the Software for You. You will be responsible for Users' compliance with this Agreement as if their acts and omissions were the acts and omissions of You.

2.   Term and Termination.

2.1.   This Agreement is effective from the effective date detailed in the relevant Order ("**Effective Date**") for the period as agreed in writing between the parties in the Order (the "**Term**"), unless terminated earlier as set forth herein or the parties agree to extend the Term in writing. This Agreement will terminate automatically if You fail to comply with any of the limitations or other requirements described herein. Either party may terminate this Agreement at any point by written notice.
Notice of termination from the Licensee will only be effective if delivered in writing by email to: **tryandbuy@swivelsecure.com**
2.2.   If either party terminates the Agreement, You will cease to access the Software and/or the Services as applicable, and make no further use whatsoever of the Software and/or the Services, except to the extent that may be permitted under any subsequent agreements between You and Company. You will promptly return to Company or at Company's request permanently erase or destroy from all of Your devices and systems the Software and any of Company's confidential information as detailed in clause 7 herein.

2.3.   Upon the expiration of the Term, unless terminated in accordance with clause 2.1, your use of the Software and Services shall be governed by the Full Terms and Conditions and you shall be billed for your use of the Software and Services accordingly under those terms.

3.   Company's Rights.

You acknowledge that all right, title, and interest in and to the Software and Services, including associated intellectual property rights, are owned by and shall remain with Company and its licensors. This Agreement does not convey to You any rights or interest in or to the Software or Services, but only a limited right of use revocable in accordance with the terms of this Agreement. All rights not expressly set forth hereunder are reserved by Company.

4.   Restrictions. You will not:

4.1.   attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software (except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties);
4.2.   license, sell, resell, transfer, rent, lease, distribute, exploit or otherwise make the Software or Services available to anyone other than the Users;
4.3.   use the Software or Services to store or transmit infringing, obscene, libellous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights;
4.4.   use the Software or the Services to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;
4.5.   copy, modify, transmit, distribute, frame or mirror any Software in any form or media or by any means, (vii) use the Software or Services to store or transmit malicious code or in any way that is unlawful or fraudulent;
4.6.   interfere with, damage or disrupt the integrity or performance of the Software or Services or third party data;
4.7.   attempt to gain or assist third parties to gain unauthorised access to the Software or

Services or their related systems or networks; and

4.8.   access the Software or Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

5.   Exclusion of Warranties.

The Software and Services are provided to Licensee "as is", and any use by Licensee of the Software and Services during the term will be at Licensee's sole risk. Company makes no warranties relating to the Software or Services and expressly disclaims all warranties, express or implied, including without limitation those of merchantability, or fitness for a particular purpose. The foregoing provisions shall be enforceable to the maximum extent permitted by applicable law.

6.   Limitation of Liability.

6.1.   Company's cumulative liability to You or any other party for any loss or damages resulting from any claim arising out of or relating to this Agreement, including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, shall not exceed £100. Note that any data Your or Your Users enter into the Software during the Term will be permanently lost to You and Your Users at the end of the Term on termination or expiry unless You continue using the Software and Services under the Full Terms and Conditions in accordance with clause 2.3, or export such data before the end of the Term.

6.2.   In no event shall Company be liable for any indirect, incidental, consequential, special, or exemplary damages or loss of profits or loss or corruption of data, even if You have advised Company of the possibility of such damages.

6.3.   The limitations of liability in this clause 6 shall apply to the fullest extent permissible at law but do not limit any liabilities which may not be excluded by law (including death or personal injury caused by negligence, fraud or fraudulent misrepresentation).

7.   Confidentiality.

Each Party undertakes that it shall not at any time disclose to any person or use any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, or such other information which ought reasonably to be regarded as confidential, except as permitted herein. This clause 7 shall survive termination of this Agreement for as long as information shared under this Agreement is reasonably considered confidential by the disclosing party. Information shall not be deemed to be confidential if such information (i) is, or becomes, publicly known other than through a breach of this Agreement, (ii) is in the possession of the receiving party prior to receipt thereof from the other party, (iii) is independently developed by the other party, or (iv) is lawfully disclosed to the receiving party by a third party who is not subject to a confidentiality agreement or obligation relating to such disclosure. Each party may disclose the other party's confidential information: (i) to its employees, officers, representatives or advisors who need to know such information for the purpose of exercising that party's rights or carrying out its obligations under this Agreement ("Permitted Purpose"), provided that each party shall ensure such persons comply with this clause 7 and shall be liable for any failure of such persons to do so; or (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. No party shall use the other party's confidential information for any purpose other than the Permitted Purpose.

8.   General.

8.1.   This Agreement does not create any agency, partnership or joint venture relationship.

8.2.   Company may, but the Licensee may not without Company's prior written consent, assign, novate, subcontract or otherwise transfer any of its rights or obligations under this Agreement.

8.3.   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.

8.4.   This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which together shall constitute a single instrument.

8.5.   No variation of this Agreement shall be effective unless it is in writing and signed by the parties.

8.6.   No failure or delay by either party in exercising any right or remedy provided under this Agreement or by law shall constitute a waiver, prevent or restrict the future exercise, of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

8.7.   If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

8.8.   No one other than a party to this Agreement shall have any right to enforce any of its terms.

8.9.   This Agreement 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. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.