

IP/Third Party Services

Terms and Conditions

1 INTERPRETATION

- 1.1 In these terms and conditions ("Conditions"), words and expressions shall have the same meanings as assigned to them in the FLUIDONE LIMITED Standard Terms of Business, except or as additionally detailed below:

"Initial Term"	means the period commencing on the Operational Services Date and for the period as set out in the Service Contract subject to continuation in accordance with clause 9.1;
"Operational Date"	Service means the date when the Service is first made available to the Customer;
"Output Materials"	means any Documents or other materials, and any data or other information provided by FLUIDONE LIMITED relating to the Service;
"Supplier"	means the supplier to FLUIDONE LIMITED who will provide the Services identified in the Service Contract;
"Supplier's Conditions"	means the terms and conditions in accordance with which the Supplier has agreed to supply the Services to FLUIDONE LIMITED order;
"Supplier's Equipment"	means the equipment which the Supplier must install in the Customer's premises in order to provide the Services;

- 1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 SCOPE

- 2.1 These terms and conditions represent Service Specific Terms and Conditions for IP and other Third Party Services provided by FLUIDONE LIMITED.
- 2.2 Service Contracts are formed following the process described in Clause 3 of the Standard Terms of Business ("STB").
- 2.3 Where a Master Services Agreement (MSA) is in force between FLUIDONE LIMITED and the Customer, any special terms detailed within it shall have precedence over the terms in these Conditions.

3 SUPPLY OF THE SERVICE

- 3.1 FLUIDONE LIMITED shall be responsible for the procurement and provision of the Service from the Supplier and facilitating the supply of the Service to the Customer in accordance with the Service Contract. Any changes or additions to the Service or the Service Contract must be agreed in writing between FLUIDONE LIMITED and the Customer. Any such Services supplied are provided under these Service Specific Terms & Conditions.
- 3.2 The Customer shall at its own expense supply FLUIDONE LIMITED with all necessary Input Material specified and requested by FLUIDONE LIMITED in writing to allow FLUIDONE LIMITED to provide the Services and will ensure that all Input Material is accurate to the fullest extent possible. The Customer acknowledges that FLUIDONE LIMITED will be unable to process any order where Input Material is incomplete, and the correction of any inaccuracy in the Input Material may involve additional cost once a Service Contract is in place
- 3.3 The Customer shall at its own expense retain duplicate copies of all Input Material. FLUIDONE LIMITED shall have no liability for any loss or damage to Input Material supplied by Customer. For the avoidance of doubt, if the loss of Input Material results in the disclosure of Customer Confidential Information, then FLUIDONE LIMITED will be liable for this under the STB.
- 3.4 FLUIDONE LIMITED may correct any typographical or other errors or omissions in any Document relating to the provision of the Service which is part of the Output Materials ensuring the Customer is notified of the said changes.
- 3.5 FLUIDONE LIMITED may at any time by giving reasonable prior notice to the Customer make any changes to the Service which are either necessary to comply with any applicable safety or other statutory or regulatory requirements, or which do not materially affect the nature, quality or cost of the Service.

4 SUPPLIER CONDITIONS

- 4.1 Where FLUIDONE LIMITED is agreeing to supply Services acquired or licensed from a third party supplier, the Customer acknowledges that FLUIDONE LIMITED's obligations to supply and ability to deliver is dependent upon the performance of that Supplier and that FLUIDONE LIMITED will, in no event, incur any greater liability to the Customer than the liability of that Supplier to FLUIDONE LIMITED.

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- 4.2 FLUIDONE LIMITED has engaged the Supplier detailed in the Service Contract to provide certain Services, and the terms and conditions upon which the Supplier will provide those Services are available on request. Except as qualified elsewhere in this Schedule, such terms and conditions are incorporated into the Service Contract, except that:
- 4.2.1 Obligations detailed as obligations of the Supplier shall be read as obligations of FLUIDONE LIMITED;
 - 4.2.2 Warranties detailed as warranties of the Supplier shall be read as warranties of FLUIDONE LIMITED;
 - 4.2.3 Obligations of the Customer to the Supplier shall be read as obligations to FLUIDONE LIMITED.
- 4.3 Supplier Conditions that relate to direct commercial interactions between the Supplier and FLUIDONE LIMITED, and to general matters shall not be made applicable in a Service Contract which references these Service Specific Terms & Conditions, including but not limited to: charges, confidentiality, termination, dispute resolution and governing law.
- 4.4 Supplier Conditions that provide descriptions, qualifications or limitations on the Services and other special terms related to the Services to be provided shall be incorporated into the Service Contract, including but not limited to: Service definitions (including intellectual property) and performance measures, delivery process and acceptance and customer obligations.
- 4.5 Where Supplier Conditions provide, Service Credits may be payable in the event that the Service is not provided in accordance with the offered service level. Where Service Credits are due and are received from the Supplier, these will be transmitted to Customer in full. The Service Credits detailed are agreed to be the sole remedy of the Customer for any failure by FLUIDONE LIMITED to provide the Service in accordance with the terms of the Service Contract and the Parties agree that such Service Credits are a genuine pre-estimate of the loss that the Customer is likely to suffer.

5 CHARGES

- 5.1 Subject to any Special Conditions agreed, the Customer shall pay to FLUIDONE LIMITED the amounts specified in executed Service Contracts and FLUIDONE LIMITED invoices provided to the Customer, or which have been notified in advance in writing and are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any Input Material
- 5.2 FLUIDONE LIMITED shall be entitled to increase the Charges for any Service once in any Year by serving not less than thirty (30) days' written notice on the Customer, provided that the percentage increase in the relevant Charge is no greater than the percentage increase in the CPI between (a) the later of the Commencement Date and the date of any previous increase and (b) the date of the relevant increase.
- 5.3 All charges quoted to the Customer for the provision of the Services are exclusive of any Value Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.
- 5.4 Unless otherwise agreed between the Customer and FLUIDONE LIMITED and set out in a Service Contract, FLUIDONE LIMITED shall be entitled to invoice the Customer in respect of non-recurrent charges (NRC) identified in the Service Contract upon the Operational Service Date for each individual Service. In respect of recurrent charges (ARC) identified in a Service Contract, FLUIDONE LIMITED shall be entitled to invoice at the beginning of each quarter year, with the first invoice on the Operational Service Date, unless otherwise agreed between the Customer and FLUIDONE LIMITED and set out in a Service Contract. FLUIDONE LIMITED will at Customer's request consolidate together charges for multiple Service Contracts into one invoice and will provide an itemised electronic backing schedule showing each separate chargeable item with a unique item number against each relating to the source proposal/quotation for each charge FLUIDONE LIMITED will invoice Customer separately for NRC and ARC items.
- 5.5 The amounts specified in FLUIDONE LIMITED invoices to the Customer shall be paid by the Customer (together with any applicable Value Added Tax) within 30 days from receipt of FLUIDONE LIMITED invoice by the Customer (and receipt shall be deemed to take place 48 hours after FLUIDONE LIMITED posted each invoice to the Customer having first properly prepaid and addressed the same).

6 INSTALLATION

- 6.1 FLUIDONE LIMITED will use reasonable endeavours to ensure that the Supplier commences the supply of the Service on the date specified in the Service Contract and at the address agreed between FLUIDONE LIMITED and the Customer.
- 6.2 The Customer must ensure that any equipment that is attached (directly or indirectly) to the service is technically compatible with the service and approved for that purpose under any relevant legislation. The Customer must ensure that any equipment connected to or used with the Service must be connected and used in accordance with any instructions, safety or security procedures applicable to the use of that equipment.
- 6.3 Where Supplier Equipment is provided, the Customer shall ensure that FLUIDONE LIMITED is not in breach of any term of the Supplier Conditions that have been notified to the Customer in advance in writing insofar as they relate to the possession and use of the Supplier's Equipment by the Customer during the life of a Service Contract.

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- 6.4 The Customer shall provide the Supplier with all reasonable access to the Supplier's or Customer's Equipment for the purposes of maintenance as the Supplier may reasonably require upon the Supplier serving on the Customer reasonable notice.

7 WARRANTY

- 7.1 FLUIDONE LIMITED warrants that to the best of its knowledge and belief, no additional authorisation, consent, approval, filing or registration with any court or government department, commission, agency or third party is, at the Effective Date, necessary or required for FLUIDONE LIMITED to enter and give effect to the Service Contract;
- 7.2 FLUIDONE LIMITED shall ensure to the maximum extent allowable by the manufacturer(s) concerned, that any guarantee or warranty granted by Supplier is made available for the benefit of the Customer.
- 7.3 Once the terms of such guarantee or warranty have been notified to the Customer in writing by FLUIDONE LIMITED, the Customer is responsible for instructing itself on the terms of such guarantee or warranty and ensuring that any conditions are fully complied with.

8 LIMITATION OF LIABILITY

- 8.1 FLUIDONE LIMITED shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, or arising from their late arrival or non-arrival, or any other fault of the Customer.
- 8.2 The liability of FLUIDONE LIMITED for any default, damages or claim arising as a result of or in connection with third party Services provided by FLUIDONE LIMITED shall be limited to that specified in the Supplier's Conditions.

9 TERM & TERMINATION

- 9.1 Each Service Contract shall come into force on the date set out in the Service Contract and shall continue in force for the duration of the Initial Term and shall continue thereafter unless or until terminated by either party giving relevant notice as per the Supplier's Conditions for that Service, plus five Working Days.
- 9.2 In addition to the provisions of clause 9.1, if the Service Contract may be terminated by either party in accordance with Clauses 6.1.1 or 6.1.2 of the STB, or as a result of a Force Majeure Event as specified in Clause 18.4 of the STB.
- 9.3 In the event of the Customer terminating the Service Contract other than in accordance with clause 9.1 or breach by FLUIDONE LIMITED under clause 9.2, the Customer shall be liable for early termination fees in accordance with the Supplier's early termination fees published in its then current price list.
- 9.4 Where Customer requested termination of a third-party Supplier's circuit, Customer's notice period shall be effective from the date of signature of the Sales Order Form, confirming full details of the circuit and any additional early termination charges that may be applicable as a result of an early termination request.

10 STANDARD TERMS OF BUSINESS

- 10.1 The FLUIDONE LIMITED Standard Terms of Business applicable at the date of contract are hereby incorporated by reference into any Service Contract entered into by FLUIDONE LIMITED which also incorporates these IP/Third Party Services Terms and Conditions.