

# Voyager Worldwide Standard Contract Terms & Conditions

## 1. Definition

Agreement" means any agreement for the supply of charts, publications, digital products and any other products including any Schedules and Annexes;

"Confidential Information" means any information in any form relating to our technology, business or affairs or those of our affiliates which is either marked as confidential or is confidential by its nature that is disclosed by us to you or is obtained by you in connection with a Contract whether disclosed before, on or after the date of a Contract and includes any data content provided in connection with any Data Services;

"Contract" has the meaning set out in Section 2.1;

"Conditions" means these terms and conditions;

"Data Services" means any data content, navigational or otherwise, you may pay to receive as set out in the Agreement provided either by us or third party Data Suppliers;

"Data Supplier" means a person who provides data content for Data Services;

"EULA" means any end user licence or similar document used to license or supply Products or Services to you;

"Initial Term" means the term stated in the Agreement;

"Intellectual Property Rights" means patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, moral rights, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Products" means the products agreed in a Contract to be purchased by you from us (including any part or parts of them);

"Services" means the services agreed in a Contract to be purchased by you from us (including any part or parts of them) including any Data Services;

"Software" means any software or system included in and forming part of the Products and/or Services together with associated documentation, additional modules and future modified versions unless otherwise stated;

"Subscription Fee" means any fee payable by you for Software or Data Services;

"us" means the organisation within the Voyager Worldwide group of companies that is providing Products or Services to you.

## 2. Our sale to you

- 2.1 Each Contract between us for the sale of Products or Services will be made up of (as applicable) (1) our quote (2) your order (3) these Conditions, (4) the Agreement and (5) the EULA(s). If there is any inconsistency between the Conditions and the Agreement, the Agreement will prevail to the extent of the inconsistency. The documents referred at (2), (3), (4) and (5) above shall prevail over any inconsistency with your order.
- 2.2 Our quotes are valid for 30 days and we may withdraw a quote by notice to you.
- 2.3 There will be no binding contract between us until we dispatch Products or deliver Services.
- 2.4 We may deliver Products or Services by separate instalments. Each separate instalment constitutes a separate Contract and may be invoiced separately and must be paid for in accordance with Section 5.
- 2.5 Once we have acknowledged an order you may not cancel it unless we agree in writing. We may require you to meet our costs incurred because of the cancellation.

## 3. Quantity, Description and Use

- 3.1 The quantity and description of Products or Services ordered shall be as set out in our quote.
- 3.2 We reserve the right to make any changes to the specification or range of Products and Services or frequency of supply at any time without prior notice.
- 3.3 You agree to only use Products and Services and to store Products in accordance with any instructions we give you.

## 4. Prices

- 4.1 The price of Products and Services (including any Subscription Fees) is our quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in our price list current at the date of acceptance of the order (plus VAT where applicable).
- 4.2 We may increase prices referred to in Section 4.1 to cover any increases due to market conditions which affect us at the date of dispatch.

## 5. Payment

- 5.1 We may invoice you on, or at any time after, delivery or after the Products are collected by you or the Services are first performed by us.
- 5.2 Our payment terms are 30 days from the date of our invoice. Products and Services must be paid for in the currency stated in invoice. If you do not pay in full on the due date we may:
  - 5.3 terminate or suspend a Contract (or part of it) or suspend any further deliveries of Products or provision of Services;
  - 5.4 charge interest on the amount outstanding from the due date to the date of receipt by us (whether or not after judgement) in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;
  - 5.5 stop any Product in transit; and
  - 5.6 take away any discounts that you may have been benefitting from.

## 6. Delivery, Risk and Property

- 6.1 Unless otherwise agreed in writing by us we shall deliver Products to the address specified by you.
- 6.2 If we are delivering Products we will be responsible for any damage or loss in transit provided that you notify us (or our carrier if applicable) within 7 days of delivery (or the expected delivery date in the event of non-delivery). We will then repair or replace any lost or damaged Product. If you do not do this you will be deemed to have accepted the Products delivered.
- 6.3 Where you are collecting Products from our place of business, the Products are at our risk until they are loaded onto your carrier.
- 6.4 Where Products are supplied for export from the United Kingdom you must comply with any legislation about the import of Products into the country of destination and the export and re-export of the Products and you are responsible for the payment of any duties.
- 6.5 You must notify us within 7 days of delivery or receipt of a Product or Services of any defect and we will then repair or place the defective Product or Services. If you do not do this you will be deemed to have accepted the Product or Services.
- 6.6 You shall become the owner of a Product when we have received payment in full for it in cleared funds.

## 7. Software Licence and Data Services

- 7.1 The price of the Products and Services includes any licence fee allowing you to use any Software.

- 7.2 If you are provided with any EULA you must abide by it.
- 7.3 If a EULA has not provided, you accept a non-exclusive, non-transferable licence to use the Software and/or Data Services on the following conditions:
- 7.3.1 you may not copy (except to the extent permissible under applicable law or for normal operation of Products or Services), reproduce, translate, adapt, vary or modify the Software and/or Data Services, nor share it with any third party, without our prior written permission;
- 7.3.2 you must not use the Software on any equipment other than the Products and may not remove, adapt or otherwise tamper with any copyright notice, which is in or on the Software or on the medium on which it resides; and
- 7.3.3 we may terminate this license on written notice but only if the continued use or possession of the Software and/or the Data Services by you infringes our or a third party's rights, or if we are required to do so by law or a Data Supplier, or if you have not complied with any term of the Contract.
- 7.4 Any Software or Data Services are provided for the Initial Term and if no Initial Term is stated in the Agreement, the Initial Term is one year from the date of the Agreement. On expiry of the Initial Term the Contract will continue unless terminated by either of us on 45 days' written notice to take effect on or after the expiry of the Initial Term.
- 7.5 Upon termination or expiry of a Contract you must immediately remove or delete the Software and/or Data Services from all computer equipment.

## 8. Warranties

- 8.1 Where we are not the manufacturer of a Product, we will use reasonable efforts to transfer to you the benefit of any warranty or guarantee given to us by the manufacturer or supplier.
- 8.2 Where we are the manufacturer of Products, we warrant to you that for 3 months from delivery Products are free from defects in workmanship and materials. We will, at our option, repair or replace Products (other than consumable items) which are found to be defective as a result of faulty materials or workmanship within this period.
- 8.3 Where we provide Services and/or Software (including, without limitation any Voyager services or solutions, Voyager Software and/or Data Services) we provide these "as is".
- 8.4 We do not warrant that any charts or manuals provided by us but produced by third parties including hydrographic offices are free from defects or that the information contained within them corresponds with actual facts.
- 8.5 We will not be liable for a breach of the warranty contained in Section 8.2 unless you give us written notice of the defect or poor performance within 7 days of the time you discover it.
- 8.6 We will also not be liable for a breach of the warranty contained in Section 8.2 if:
- 8.6.1 you use the Products in respect of which you have given written notice under Section 6.5;
- 8.6.2 the defect arises because you did not follow our instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; or
- 8.6.3 you alter or repair the relevant Products without our written consent or use the Products improperly or outside their usual use.
- 8.7 Any repaired or replacement Products will be under warranty for the unexpired portion of the period referred to in Section 8.2.
- 8.8 Except as expressly and specifically provided for in these Conditions, all warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law. In particular we do not warrant that the operation of any Software and/or Data Services will be uninterrupted or error free.

## 9. Limitation of Liability

- 9.1 Nothing in these Conditions excludes or limits our liability for death or personal injury caused by our negligence or fraud or fraudulent misrepresentation.
- 9.2 Subject to Section 9.1:
- 9.2.1 we will not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for any loss of profits, business goodwill or similar losses or for any loss of goods, use or loss of or corruption of data or for any special, indirect, or consequential or pure economic loss, costs, damages, charges or expenses; and
- 9.2.2 our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with a Contract shall be

limited to the price payable for the Products or Services under Section 5 provided pursuant to that Contract.

- 9.3 The above provisions set out our entire financial liability to you (including any liability for the acts or omissions of our employees, agents and sub-contractors).
- 9.4 In particular and for the avoidance of any doubt we will not be liable for any loss or damage caused by defects in Products and Services provided by us but produced by third parties including hydrographic offices or caused by information in them not corresponding with them actual facts.
- 9.5 You will indemnify us against (i) any loss or damage to property or injury to or death of any person caused by any negligent act or omission or breach of this Contract by you; (ii) all damages, claims, losses, costs, demands and expenses suffered or payable by us as a result of your breach of the Contract and/or the introduction of any error, corruption, or defect in the Products, Services or Software; and (iii) all damages, claims, losses, costs, demands and expenses suffered or payable by us as a result of any claims made against us by any third party relating to your use or misuse of the Products, Services and/or Software including, without limitation, by a Data Supplier relating to your use or misuse of any Data Services

## 10. Intellectual Property Rights

- 10.1 We (or the people licensing or supplying us) will retain the Intellectual Property Rights in Products, Services and Software provided to you and in all documents supplied to you by us and in any developments and enhancements. In relation to Software you are only buying the media on which the Software is recorded.
- 10.2 You will not copy, reproduce, translate, adapt, vary or modify any Products or Services.
- 10.3 You agree to give us reasonable assistance in relation to the protection of the Intellectual Property Rights.

## 11. Confidentiality

- 11.1 You agree as follows:
- 11.1.1 to hold Confidential Information in confidence and not to disclose or allow it to be disclosed to anyone without our written permission;
- 11.1.2 only to use the Confidential Information for the fulfilling of the Contract;
- 11.1.3 to keep the Confidential Information safely and securely using the same degree of care as you use for your own Confidential Information; and
- 11.1.4 not to copy the Confidential Information except as may be reasonably necessary for fulfilling the Contract.
- 11.2 The obligations set out in Section 11.1 will not apply to Confidential Information which:
- 11.2.1 at the time of us disclosing it to you, it is in the public domain;
- 11.2.2 after us disclosing it to you it comes into the public domain unless because of your breach of the Contract;
- 11.2.3 was lawfully obtained at any time by you from a third party without restrictions in respect of disclosure or use;
- 11.2.4 was independently developed by you other than by a breach of this Contract; or
- 11.2.5 you are required to disclose by law.
- 11.3 Where Confidential Information relating to one of our affiliates is disclosed to you, that affiliate may enforce this Contract against you and will have the same rights under this Contract as us and you will owe the same duties and obligations to that affiliate as you do to us. In addition, any losses suffered or incurred by an affiliate as a result of breach of this Contract ("Affiliate Loss") by you may be treated as if suffered or incurred by us and we shall be entitled to enforce this Contract against you and to recover the Affiliate Loss.
- 11.4 This Section 11 will survive termination or expiry of the Contract.

## 12. Termination

- 12.1 We may terminate a Contract or any part of it for on 30 days' written notice to you upon the request of a key supplier, or regulatory body or in the event we are no longer able to provide a Product or Service.
- 12.2 We may also immediately terminate a Contract or any part of it or immediately suspend any further deliveries of Products or provision of Services without incurring any liability to you and, if Products have been delivered or Services provided but not paid for, the price shall become immediately due and payable if:
- 12.2.1 you breach any material provisions of a Contract or EULA; ;
- 12.2.2 a EULA is terminated;

- 12.2.3 a Data Supplier terminates or suspends the provision of Data Services;
  - 12.2.4 you are in financial difficulties; or
  - 12.2.5 you cease to trade.
- 12.3 On termination of a Contract for any reason you must pay settle any outstanding invoices, stop using any Software and Services and any EULA in force will terminate automatically. Termination of a Contract will not affect any accrued rights or liabilities or the continuation of any provision stated or required to survive termination.

### **13. Force Majeure**

- 13.1 If either of us is prevented from or delayed in performing any obligations under a Contract because of any circumstances beyond our reasonable control ("Force Majeure Event"), the affected person will be excused performance so long as the affected person gives notice to the other person of the Force Majeure Event as soon as it occurs and uses its reasonable efforts to reduce its' impact.
- 13.2 If a Force Majeure Event continues for 30 days from the date that notice is given under Section 13.1 either of us can terminate a Contract immediately on written notice to the other.

### **14. General**

- 14.1 You warrant to us that the supply of Products and Services to you and use by you does not and will not result in us committing a direct or indirect breach of applicable UK, EU or US trade sanctions or export control.
- 14.2 If a Court decides that any provision of these Conditions is illegal, void or unenforceable, this will not affect the remainder of the provisions which will continue to remain in force.
- 14.3 Each Contract, together with any document referred to in it, constitutes the entire understanding and agreement between us and supersedes all prior agreements, negotiations, proposals and discussions between us.
- 14.4 You may not transfer your side of a Contract without first getting our written permission. We may transfer or subcontract our side of the Contract and our duties under it at any time.
- 14.5 Each Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else unless specifically stated.
- 14.6 Any notices to be sent under a Contract must be in writing and sent to the recipient's customary address.
- 14.7 You agree that we may, from time to time, change the terms of a Contract. We will notify you 30 days before the change takes effect and if you do not object to the change in writing to us then the change will take effect at the end of the 30 days.
- 14.8 Each Contract and any disputes or claims relating to it will be governed by and construed in accordance with the laws of England. We agree that the courts of England have exclusive jurisdiction to settle any such disputes or claims.