

Haes Terms and Conditions

1 Interpretation

1.1 In these Conditions, the following definitions apply:

Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Conditions	these terms and conditions as amended from time to time in accordance with condition 15.7.
Contract	the contract between Haes and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
Customer	the person or firm who purchases the Goods and/or Services from Haes.
Deliverables	the deliverables (if any) set out in the Order.
Delivery Location	has the meaning set out in condition 4.2.
Force Majeure Event	has the meaning given to it in condition 13.1.
Goods	the goods (or any part of them) set out in the Order.
Haes	Haes Systems Limited registered in England and Wales with company number 1146067.
Haes Materials	has the meaning set out in condition 8.2.7.
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, 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
Order	the Customer's order for the supply of Goods and/or Services, as set out by the Customer by telephone to Haes, as set out in the Customer's purchase order form, or the Customer's acceptance (in writing or by telephone to Haes) of Haes' quotation, as the case may be.
Services	the services, including the Deliverables, supplied by Haes to the Customer as set out in the Service Specification below.
Service Specification	the description or specification for the Services agreed in writing by Haes and the Customer.

- 1.2 In these Conditions, the following rules apply:
- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;
 - 1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - 1.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - 1.2.5 a reference to **writing** or **written** includes faxes and e-mails.

2 Basis of Contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when Haes issues written acceptance of the Order, at which point and on which date the Contract shall come into existence.
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Haes which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Haes and any descriptions of the Goods or illustrations or descriptions of the Services contained in Haes' catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by Haes shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3 Goods

- 3.1 The Goods are described in Haes' catalogue or, where the Goods are not listed in the Haes catalogue, the Goods are as described in the relevant manufacturers' advertising material.
- 3.2 Haes reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

4 Delivery of Goods

- 4.1 Haes shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Haes reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.2 Haes shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Haes notifies the Customer that the Goods are ready.
- 4.3 The Customer shall ensure that one of its employees or workers, or a person authorised by the Customer, will be at the Delivery Location to take delivery of the Goods.
- 4.4 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 4.5 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence.
- 4.6 In respect of delivery of Goods where a Customer does not have a credit account with Haes, Haes shall have no obligation to deliver the Goods until the invoice in respect of such Goods has been paid in full and cleared funds in accordance with condition 9.7.2.
- 4.7 Haes shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Haes with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.8 If Haes fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Haes shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide Haes with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.9 If the Customer fails to accept or take delivery of the Goods within 10 Business Days of Haes notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Haes' failure to comply with its obligations under the Contract in respect of the Goods:
 - 4.9.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Haes notified the Customer that the Goods were ready; and
 - 4.9.2 Haes shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.10 If 10 Business Days after Haes notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, Haes may resell or otherwise dispose of part or all of the Goods.
- 4.11 Haes may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5 Quality of Goods

- 5.1 Haes warrants that on delivery the Goods shall:
 - 5.1.1 conform in all material respects with their description;
 - 5.1.2 be free from material defects in design, material and workmanship;
 - 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - 5.1.4 be fit for any purpose held out by Haes in writing.
- 5.2 The Haes Warranty and Return Policy applies to the Goods, a copy of which is available at www.haes-systems.com/downloads/download-info/warranty-returns-policy/.

6 Title and risk

- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until the earlier of:
 - 6.2.1 Haes receives payment in full (in cash or cleared funds) for the Goods; and
 - 6.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in condition 6.4.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
 - 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Haes' property;
 - 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Haes' behalf from the date of delivery;
 - 6.3.4 notify Haes immediately if it becomes subject to any of the events listed in condition 12.1.2; and
 - 6.3.5 give Haes such information relating to the Goods as Haes may require from time to time.
- 6.4 Subject to condition 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Haes receives payment for the Goods. However, if the Customer resells the Goods before that time:
 - 6.4.1 it does so as principal and not as Haes' agent; and
 - 6.4.2 title to the Goods shall pass from Haes to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in condition 12.1.2, then, without limiting any other right or remedy Haes may have:
 - 6.5.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and

- 6.5.2 Haes may at any time:
 - 6.5.2.1 require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - 6.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7 Supply of Services

- 7.1 Haes shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 Haes shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 Haes shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Haes shall notify the Customer in any such event.
- 7.4 Haes warrants to the Customer that the Services will be provided using reasonable care and skill.

8 Customer's warranties and obligations

- 8.1 The Customer warrants and confirms that it is purchasing Goods and/or Services as a business customer and that it is not a consumer.
- 8.2 The Customer shall:
 - 8.2.1 ensure that the terms of the Order and (if applicable) the Services Specification are complete and accurate;
 - 8.2.2 co-operate with Haes in all matters relating to the Services;
 - 8.2.3 provide Haes, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Haes to provide the Services;
 - 8.2.4 provide Haes with such information and materials as Haes may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - 8.2.5 prepare the Customer's premises for the supply of the Services;
 - 8.2.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
 - 8.2.7 keep and maintain all materials, equipment, documents and other property of Haes (**Haes Materials**) at the Customer's premises in safe custody at its own risk, maintain the Haes Materials in good condition until returned to Haes, and not dispose of or use the Haes Materials other than in accordance with Haes' written instructions or authorisation.

- 8.3 If Haes' performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- 8.3.1 Haes shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Haes' performance of any of its obligations;
 - 8.3.2 Haes shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Haes' failure or delay to perform any of its obligations as set out in this condition 8.3; and
 - 8.3.3 the Customer shall reimburse Haes on written demand for any costs or losses sustained or incurred by Haes arising directly or indirectly from the Customer Default.

9 Charges and payment

- 9.1 The price for Goods shall be the price set out in the Order or, if no price is quoted, the price set out in Haes' published price list as at the date of delivery.
- 9.2 The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods. For the avoidance of doubt, even if such costs and charges are not included on a Customer's purchase order, Haes is still entitled to invoice the Customer for such costs and charges.
- 9.3 The charges for Services shall be on a time and materials basis:
- 9.3.1 the charges shall be calculated in accordance with Haes' standard daily fee rates from time to time; and
 - 9.3.2 Haes shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Haes engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Haes for the performance of the Services, and for the cost of any materials.
- 9.4 Haes reserves the right to:
- 9.4.1 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. Haes will give the Customer written notice of any such increase; and
 - 9.4.2 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Haes that is due to:
 - 9.4.2.1 any factor beyond the control of Haes (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 9.4.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
 - 9.4.2.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Haes

adequate or accurate information or instructions in respect of the Goods.

- 9.5 In respect of Goods, Haes shall invoice as follows:
- 9.5.1 if the Customer has a credit account with Haes, Haes shall invoice the Customer on or at any time after despatch of the Goods from Haes' premises; and
 - 9.5.2 if the Customer does not have a credit account with Haes, Haes shall invoice the Customer on or at any time after acceptance of the Order.
- 9.6 In respect of Services, Haes shall invoice the Customer on completion by Haes of the performance of the Services.
- 9.7 The Customer shall pay each invoice submitted by Haes as follows:
- 9.7.1 if the Customer has a credit account with Haes, the Customer shall pay each invoice by the end of the month following the date of the invoice; and
 - 9.7.2 if the Customer does not have a credit account with Haes, the Customer shall pay each invoice on receipt.
- 9.8 The Customer shall pay each invoice in full and in cleared funds to a bank account nominated in writing by Haes and time for payment shall be of the essence of the Contract.
- 9.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Haes to the Customer, the Customer shall, on receipt of a valid VAT invoice from Haes, pay to Haes such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.10 If the Customer fails to make any payment due to Haes under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Lloyds Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.11 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. Haes may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Haes to the Customer.

10 Intellectual property rights

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Haes.
- 10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on Haes obtaining a written licence from the relevant licensor on such terms as will entitle Haes to license such rights to the Customer.
- 10.3 All Haes Materials are the exclusive property of Haes.

11 Limitation of liability: the Customer's attention is particularly drawn to this condition

- 11.1 Nothing in these Conditions shall limit or exclude Haes' liability for:
- 11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 11.1.2 fraud or fraudulent misrepresentation;
 - 11.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
 - 11.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - 11.1.5 defective products under the Consumer Protection Act 1987.
- 11.2 Subject to condition 11.1:
- 11.2.1 Haes shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and
 - 11.2.2 Haes' total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £10,000. (ten thousand pounds)
- 11.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.4 This condition 11 shall survive termination of the Contract.

12 Termination

- 12.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 12.1.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so; or
 - 12.1.2 the other party suspends or threatens to stop or suspend payment of all or a material part of its debts, is unable to pay its debts as they fall due, goes into bankruptcy or liquidation (except, in the case of a company, for the purpose of re-construction or amalgamation), has a receiver, administrator or administrative receiver, or examiner appointed over any of its assets or makes any voluntary arrangement with its creditors generally or if any event occurs or proceeding is taken, with respect to the other party, in any jurisdiction to which it is subject, that has an effect equivalent or similar to the events referred to in this condition 12.1.2.
- 12.2 Without limiting its other rights or remedies, Haes may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

- 12.3 Without limiting its other rights or remedies, Haes may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Haes if:
- 12.3.1 the Customer's orders and unpaid invoices reach or exceed the Customer's agreed credit limit with Haes;
 - 12.3.2 the Customer fails to pay any amount due under this Contract on the due date for payment; or
 - 12.3.3 the Customer becomes subject to any of the events listed in condition 12.1.2, or Haes reasonably believes that the Customer is about to become subject to any of them.
- 12.4 On termination of the Contract for any reason:
- 12.4.1 the Customer shall immediately pay to Haes all of Haes' outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Haes shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 12.4.2 the Customer shall return all of the Haes Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Haes may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
 - 12.4.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
 - 12.4.4 condition s which expressly or by implication have effect after termination shall continue in full force and effect.

13 Force majeure

- 13.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of Haes including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Haes or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 13.2 Haes shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 13.3 If the Force Majeure Event prevents Haes from providing any of the Services and/or Goods for more than 30 days, Haes shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

14 Notices

- 14.1 Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this condition, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.

- 14.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in condition 14.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 14.3 The provisions of this condition shall not apply to the service of any proceedings or other documents in any legal action

15 General

- 15.1 Haes may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 15.2 The Customer shall not, without the prior written consent of Haes, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.3 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the Contract.
- 15.4 If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 15.5 A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further 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.
- 15.6 A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 15.7 Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by Haes.

16 Governing law and jurisdiction

- 16.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 16.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).