

Willo Terms and Conditions of Supply

1 Definitions and interpretation

1.1 In these Conditions the following definitions apply:

"Acceptable Use Policy" means the acceptable use policy on the Supplier's Website;

"Applicable Law" means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national;

"Business Day" means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in Glasgow, Scotland;

"Conditions" means the Supplier's terms and conditions of supply set out in this document;

"Confidential Information" means any commercial, financial or technical information, information relating to the Services, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;

"Contract" means the agreement between the Supplier and the Customer for the supply and purchase of Services incorporating these Conditions and the Order and including all their respective schedules, attachments, annexures and statements of work;

"Customer" means the named party in the Contract which has agreed to purchase the Services from the Supplier and whose details are set out in the Order, or the company who has signed up for the Services on the Website;

"Data Protection Laws" means, as binding on either party or the Services:

- (a) the GDPR;
- (b) the Data Protection Act 2018;
- (c) any laws which implement any such laws; and
- (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

"Data Protection Supervisory Authority" means any regulator, authority or body responsible for administering Data Protection Laws;

"Data Subject" shall have the meaning given to it in any applicable Data Protection Laws from time to time;

"Failed Payment" has the meaning given in clause 6.1;

"Force Majeure" means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract;

"GDPR" means the General Data Protection Regulation, Regulation (EU) 2016/679;

"Intellectual Property Rights" means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in software,

rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case:

- (a) whether registered or not;
- (b) including any applications to protect or register such rights;
- (c) including all renewals and extensions of such rights or applications;
- (d) whether vested, contingent or future;
- (e) to which the relevant party is or may be entitled, and
- (f) in whichever part of the world existing;

"Order" means the order for the Services from the Supplier placed by the Customer in substantially the same form as set out in the Customer's order form, or as selected by the Customer from the Supplier's Website and confirmed in the Profile;

"Package" means the package noted in the Order under the heading "fixed fees";

"Personal Data" shall have the meaning given to it in applicable Data Protection Laws from time to time;

"Price" has the meaning set out in clause 4.1;

"Profile" means the profile section of the customer's account;

"Protected Data" means Personal Data received from or on behalf of the Customer in connection with the performance of the Supplier's obligations under the Contract;

"Services" means the services set out in the Order and to be performed by the Supplier for the Customer in accordance with the Contract;

"Specification" means the description provided for the Services set out or referred to in the Contract;

"Stripe" has the meaning set out in clause 5.3;

"Supplier" means Willo Technologies Limited, a company incorporated and registered in Scotland with company number SC601085, whose registered address is at 1/1, 69 Minerva Street, Glasgow G3 8LE; and

"Term" means the term of the Contract noted in the Order, or otherwise agreed between the parties;

"Terms and Conditions of Use" means the terms and conditions of use on the Website;

"User" means an individual that uses the Customer's account;

"VAT" means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Services; and

"Website" means willotalent.com and willo.video.

1.2 In these Conditions, unless the context requires otherwise:

- 1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);
- 1.2.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
- 1.2.3 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.6 a reference to a gender includes each other gender;
- 1.2.7 words in the singular include the plural and vice versa;
- 1.2.8 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
- 1.2.10 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract; and
- 1.2.11 a reference to legislation includes all subordinate legislation made from time to time under that legislation.

2 Application of these conditions

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees.
- 2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of the Supplier and the Customer respectively.
- 2.4 Each Order by the Customer to the Supplier shall be an offer to purchase Services subject to the Contract including these Conditions.
- 2.5 If the Supplier is unable to accept an Order, it shall notify the Customer as soon as reasonably practicable.
- 2.6 The offer constituted by an Order shall remain in effect and be capable of being accepted by the Supplier for 10 Business Days from the date on which the Customer submitted the Order, after which time it shall automatically lapse and be withdrawn.

- 2.7 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Services shall arise, until the earlier of:
- 2.7.1 the Supplier's written acceptance of the Order; or
 - 2.7.2 the Supplier performing the Services or notifying the Customer that they are ready to be performed (as the case may be).
- 2.8 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.
- 2.9 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Services and are incapable of being accepted by the Customer.
- 2.10 Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Contract.
- 3 Use of the Services**
- 3.1 Subject to the Customer paying the Price, the restrictions set out in this clause 3 and the other terms and conditions of these Conditions, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Customer and the Users to use the Services during the Term.
- 3.2 The Service shall be accessed through the Website. By accessing the Website and the Service the Customer and each User agrees to the Terms and Conditions of Use and the Acceptable Use Policy.
- 3.3 The Customer shall be responsible for all use made of their account. When registering to use the Website, Customers and Users will be required to set up a password for their account, or the Supplier shall create an account and select a password for the account at the request of the Customer, which shall be kept confidential. Customers are responsible for all transactions or use made of their account through their password and for all transactions or use made of each User account. The Customer should contact the Supplier immediately if it believes unauthorised use has been made of the Customer account.
- 3.4 To register with an account, if requested the Customer shall enter their billing details and set up a Stripe account.
- 3.5 The Package the Customer is subscribing for shall be confirmed in the Order.
- 3.6 The Customer warrants that for the period of the Term:
- 3.6.1 it will not allow or suffer any User account to be used by more than one User unless it has been reassigned in its entirety to another User, in which case the prior User shall no longer have any right to access or use the Service;
 - 3.6.2 if there is a breach of 3.6.1 it will immediately notify the Supplier;
 - 3.6.3 the Customer and each User shall keep a secure password for their use of the Services and shall keep their password confidential;
 - 3.6.4 some content posted by the Customer may be viewed by other users of the Website and they may be able to see who has posted the content;
 - 3.6.5 all registration information the Customer or its Users submit shall be true, accurate, current and complete and that the Customer shall maintain the accuracy of such information;

- 3.6.6 if the Customer links their account with third party online accounts, the Supplier may access and make use of such accounts without breach of any other terms and conditions that govern the use of those accounts and without any obligation on the Supplier to pay for access or use of those accounts;
 - 3.6.7 it shall permit the Supplier to audit the Customers use of the Service in order to monitor compliance with these Conditions; and
 - 3.6.8 if the Customer has underpaid the Price to the Supplier by allowing multiple Users to share a User's account, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the Supplier's price list within ten (10) Business Days of the date of the Supplier notifying the Customer of such underpayment.
- 3.7 The Customer shall not:
- 3.7.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Service on the Website in any form or media or by any means;
 - 3.7.2 access all or any part of the Service or Website in order to build a product or service which competes with the Service; or
 - 3.7.3 use the Service to provide services to third parties;
 - 3.7.4 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service, the Website and or any materials available as part of the Service or Website available to any third party except the Users, or
 - 3.7.5 attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 3.
- 3.8 The Customer shall ensure that all details on its' Profile are accurate and shall notify the Supplier immediately should any details be inaccurate including but not limited to, the Price.
- 3.9 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Service and the Website and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 3.10 Where it is suspected that a User has created multiple accounts for the same company using different email addresses with the intention to avoid payment, the Supplier reserves the right to challenge this use and restrict all or any usage of the accounts in question unless the User agrees to upgrade the Services.
- 3.11 If, in the Supplier's opinion (which need not be reasonable), any Customer fails to comply with these terms and conditions, the Terms and Conditions of Use or makes inappropriate use of the Website, the Supplier may immediately suspend or terminate their account and/or access to the Website.

4 **Price**

- 4.1 The price for the Services shall be as set out in the Order or, where no such provision is set out, shall be as advised in writing by the Supplier from time to time (the "**Price**").
- 4.2 The Prices are exclusive of VAT (or equivalent sales tax).
- 4.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

- 4.4 The Supplier may increase the Prices at any time by giving the Customer not less than 15 Business Days' notice in writing provided that the increase does not exceed 10% of the Prices in effect immediately prior to the increase.
- 4.5 Notwithstanding clause 4.4, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Services which exceeds 10% and which is due to any factor beyond the control of the Supplier.
- 4.6 Where a Customer only has one User, they will be allocated 25 credits to use on the Service offered by the Supplier as well as restricted access to other parts of the Website and Service, and there shall be no price payable for this. If the Customer requires further aspects of the Service, they will be required to upgrade.

5 **Payment**

- 5.1 The Customer shall pay the Price for the Services monthly in advance through Stripe, unless otherwise agreed by the Supplier or noted in the Order.
- 5.2 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:
- 5.2.1 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of the Royal Bank of Scotland from time to time in force,
- 5.2.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment, and
- 5.2.3 the Customer shall not be granted access to the Service.
- 5.3 Payment processing services on the Website are provided by Stripe Payments Europe, Ltd trading as Stripe ("**Stripe**") and are subject to the Stripe Connected Account Agreement, which includes the Stripe Services Agreement – United Kingdom (together, the "**Stripe Terms**"). By agreeing to these Conditions or continuing to register as a Customer on the Website, the Customer agrees to be bound by the Stripe Terms, as the same may be modified or amended by Stripe from time to time; and the Customer agrees to provide the Supplier with accurate and complete information about themselves and authorises the Supplier to share with Stripe such information and transaction information related to the Customer's use of the payment processing services provided by Stripe as the Supplier considers appropriate.

6 **Failed Payments**

- 6.1 A Failed Payment means an outstanding payment for which Stripe, as instructed by the Supplier, has been unable to make a successful charge against the payment details provided by the Customer.
- 6.2 In the case of a Failed Payment still being outstanding 24 hours after the payment is due, the Customer authorises the Supplier automatically to instruct Stripe to retry the charge.
- 6.3 In the case of a Failed Payment still being outstanding 48 hours after the payment is due, we may at our discretion suspend and/or terminate the Customer's account.

7 **Performance**

- 7.1 The Supplier shall:

- 7.1.1 make the Service available in all material respects in accordance with the description of the Services; and
 - 7.1.2 supply the Services with reasonable care and skill.
- 7.2 The provisions of these Conditions shall apply to any Services that are remedied or re-performed with effect from performance of the remedied or re-performed Services.
- 7.3 Except as set out in this clause 7, the Supplier gives no warranties and makes no representations in relation to the Services or the Website, including but not limited to the accuracy of the content on the Website. The content on the Website is provided for general information only. It is not intended to amount to advice for the Customer or any User to rely on.
- 7.4 The Supplier has no further role or responsibilities and in particular it is drawn to the attention of the Customer that:
 - 7.4.1 while the Supplier shall use all reasonable endeavours to keep the Website available at all times, access is subject to internet availability and the Supplier may also require to carry out maintenance or upgrades to the Website; and
 - 7.4.2 while the Supplier facilitates the process, we are not acting in any way as an employment recruitment service.
- 7.5 Unless otherwise indicated, the Website and Services are owned or licensed to the Supplier and shall not be used other than in accordance with this Contract.
- 7.6 The Supplier has used reasonable endeavours to ensure that our site complies with UK laws. However, the Supplier makes no representations that our Website or the Services are available for use in locations outside of the UK. The Customer accepts that if they are resident outside of the UK, they must satisfy themselves that they are lawfully able to use the Website and/or Services.
- 7.7 The Supplier makes no representations and gives no warranties or guarantees, express or implied, that the making available of the Website or the Services in any particular territory outside of the UK is permitted under any non-UK laws. The Supplier excludes all liability for any damages, loss, costs or expenses relating to or arising out of the supply of the Services or access or attempted access to our Website or the Services by persons who are citizens, residents or nationals of countries other than the UK or who are nominees of or trustees for citizens, residents or nationals of countries other than the UK who are restricted from accessing or attempting to access our Website or the Services.
- 8 **Indemnity**
 - 8.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.
- 9 **Limitation of liability**
 - 9.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in delict, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 9.
 - 9.2 Subject to clause 9.5, the Supplier's total liability shall not exceed the total aggregate amount equal to the greater of:
 - 9.2.1 the sum of £100; or

- 9.2.2 the amount paid, if any, by the Customer to the Supplier for the Services during the six month period prior to any cause of action arising.
- 9.3 Subject to clause 9.5, the Supplier shall not be liable for consequential, indirect or special losses.
- 9.4 Subject to clause 9.5, the Supplier shall not be liable for any of the following (whether direct or indirect):
 - 9.4.1 loss of profit;
 - 9.4.2 loss or corruption of data;
 - 9.4.3 loss of use;
 - 9.4.4 loss of production;
 - 9.4.5 loss of contract;
 - 9.4.6 loss of opportunity;
 - 9.4.7 loss of savings, discount or rebate (whether actual or anticipated);
 - 9.4.8 harm to reputation or loss of goodwill.
- 9.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
 - 9.5.1 death or personal injury caused by negligence;
 - 9.5.2 fraud or fraudulent misrepresentation;
 - 9.5.3 any other losses which cannot be excluded or limited by Applicable Law;
 - 9.5.4 any losses caused by wilful misconduct.
- 10 Intellectual property**
- 10.1 Where the Customer or any User uploads any content in any form to the Website, the Customer warrant to the Supplier that they, or the User, has authority to do so and that the Customer and any User will not infringe the intellectual property or other rights of any third party.
- 10.2 In relation to any content which the Customer or any User does upload in accordance with 10.1, or any Intellectual Property Rights owned by the Customer which is required to be used by the Supplier in the delivery of the Services, the Customer and the User hereby grant to the Supplier a worldwide, non exclusive, perpetual and royalty free licence to use such content or Intellectual Property Rights in the provision of Services on the Website and for the Supplier's own marketing purposes including but not limited to the Website, earnings release and calls and promotional activity.
- 11 Confidentiality and announcements**
- 11.1 The Customer shall keep confidential all Confidential Information of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
 - 11.1.1 any information which was in the public domain at the date of the Contract;

- 11.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- 11.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier; or
- 11.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract

except that the provisions of clauses 11.1.1 to 11.1.3 shall not apply to information to which clause 11.1.4 relates.

11.2 This clause shall remain in force in perpetuity.

11.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

12 **Processing of personal data**

12.1 In the event that the Supplier receives Protected Data from the Customer, the Supplier shall process and control such Protected Data in compliance with the obligations placed on it under Data Protection Laws, the terms of the Contract and the Supplier's privacy policy.

12.2 Taking into account the state of technical development and the nature of processing and controlling, the Supplier shall implement and maintain appropriate technical and organisational measures to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

12.3 The Customer shall at all times comply with all Data Protection Laws in connection with the controlling or processing of any Protected Data.

12.4 The Customer shall indemnify and keep indemnified the Supplier against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a Data Protection Supervisory Authority) arising out of or in connection with any breach by the Customer of its obligations under this clause 12

13 **Force majeure**

Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than 14 days, either party may terminate the Contract by written notice to the other party.

14 **Termination**

14.1 Either party may terminate the provision of Service at any time by giving notice in writing (which shall include email) to the other party, unless otherwise specified in the Order. Notwithstanding termination, the Customer shall have access to the Services and shall remain bound by these Conditions until the end of the Term to the extent the Term has already been paid for in full.

14.2 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

14.3 In the event of termination, there shall be no fees refunded to the Customer.

15 Notices

15.1 Any notice given by a party under these Conditions shall:

15.1.1 be in writing and in English;

15.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and

15.1.3 be sent to the relevant party at the address set out in the Contract

15.2 Notices may be given, and are deemed received:

15.2.1 by hand: on receipt of a signature at the time of delivery;

15.2.2 by Royal Mail first class post: at 9.00 am on the second Business Day after posting.

15.2.3 by email: on receipt of a delivery receipt email from the correct address.

15.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 15.1 and shall be effective:

15.3.1 on the date specified in the notice as being the date of such change; or

15.3.2 if no date is so specified, five Business Days after the notice is deemed to be received.

15.4 All references to time are to the local time at the place of deemed receipt.

15.5 This clause does not apply to notices given in legal proceedings or arbitration.

16 Further assurance

The Customer shall at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

17 Entire agreement

17.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

17.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

17.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

18 Variation

The Supplier may change these Conditions by posting the revised version on the Website at least 14 days before they become effective. Please check the Website from time to time. The Customer will be bound by the revised terms and conditions if they continue to use the Website or the Services following the effective date shown.

19 Assignment

The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, such consent not to be unreasonably withheld or delayed.

20 Set off

20.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract.

20.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

21 No partnership or agency

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

22 Severance

22.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

22.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

23 Waiver

23.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

23.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

24 Compliance with law

The Customer shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

25 Conflicts within contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.

26 Third party rights

These Conditions not create any rights in favour of third parties under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or otherwise invoke any provision of these Conditions.

27 Governing law

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of Scotland.

28 Jurisdiction

The parties irrevocably agree that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).