

These are the Terms and Conditions (version 1.1.24) of Lifos Advanced Battery Technology Ltd of Stafford Park 5, Telford, TF3 3AS. Company registered number: 13367944

1. INTERPRETATION

1.1. Definitions

Business Day – a day **other** than a Saturday, Sunday or public holiday in England, when banks in London are usually open for business.

Business Hours – the period from 8.30am to 5.00pm (4.00pm of Friday) on any Business Day.

Contract – the contract between Lifos and the Customer for the sale and purchase of the Lifos Products in accordance with these Terms and Conditions.

Delivery Location – has the meaning given in clause 4.1.

Force Majeure Event – any circumstance not within a party's reasonable control including without limitation: acts of God, natural disaster, epidemic or pandemic, terrorist attack, war, civil commotion or riots, imposition of sanctions, any law or any action taken by a government or public authority, any labour or trade dispute, industrial action or lockouts, non-performance by suppliers or subcontractors, and interruption or failure of utility service.

Lifos Products – the Lifos products (or any part of them) set out in the Order.

Order – the Customer's order for the Lifos Products, as set out in the Customer's purchase order form, the Customer's written acceptance of our quotation, or overleaf, as the case may be.

Specification – any specification for the Lifos Products, including any related plans and drawings, that is given by Lifos from time to time.

Warranty Period – has the meaning given in clause 5.1

1.2. Interpretation

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 and permitted assigns.

1.2.3 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to **writing** or **written** excludes all forms of electronic communication other than email.

2. BASIS OF CONTRACT

2.1. These Terms and 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 law, trade custom, practice or course of dealing.

2.2. The Order constitutes an offer by the Customer to purchase the Lifos Products in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.

2.3. The Order shall only be deemed to be accepted when Lifos issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4. The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.5. Any samples, drawings, descriptive matter or advertising produced by Lifos, and any descriptions or illustrations contained in Lifos' website, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Lifos Products referred to in them. They shall not form part of the Contract nor have any contractual force.

2.6. If Lifos provides the Customer with a quotation for the Lifos Products, that quotation shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue.

3. LIFOS PRODUCTS

3.1. The Lifos Products are described in the Specification, if any, and Lifos' website, catalogues, brochures and marketing materials.

3.2. To the extent that the Lifos Products are to be manufactured in accordance with a Specification supplied by the Customer:

3.2.1. the Customer shall indemnify Lifos against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Lifos in connection with:

3.2.1.1. any claim made against Lifos for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Lifos's use of the Specification;

3.2.1.2. Lifos' use or reliance on the Specification in its performance of its obligations under these terms

3.2.2. Lifos shall have no liability whatsoever for non-performance of any of its obligations under these terms to the extent that such non-performance arises out of or in connection with any error, discrepancy or omission in the Specification; and this clause 3.2 shall survive termination.

3.3. Lifos reserves the right to make changes to the Lifos Products.

4. DELIVERY

4.1. Lifos shall deliver the Lifos Products to the location set out in the Order or such other location as the parties may agree at any time after Lifos notifies the Customer that the Lifos Products are ready ('Delivery').

4.2. The Customer may request to collect the Lifos Products from Lifos' premises or such other location as Lifos may advise.

4.3. If clause 4.1 applies, Delivery is completed on the arrival of the Lifos Products at the delivery location specified in the Order.

4.4. If clause 4.2 applies, Delivery is completed when the Lifos Products are made available at the collection location.

4.3. If clause 4.1 applies, Delivery is completed on the arrival of the Lifos Products at the Delivery Location.

4.5. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Lifos shall not be liable for any delay in delivery of the Lifos Products that is caused by a Force Majeure Event or the Customer's failure to provide Lifos with adequate delivery instructions or any other instructions that are relevant to the supply of the Lifos Products.

4.6. If the Customer fails to collect or take delivery (as applicable) of the Lifos Products within 3 Business Days of Lifos notifying the Customer that the Lifos Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or Lifos' failure to comply with its obligations under the Contract in respect of the Lifos Products:

4.6.1. delivery of the Lifos Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which Lifos notified the Customer that the Lifos Products were ready; and

4.6.2. Lifos shall store the Lifos Products until actual delivery takes place and charge the Customer for all related costs and expenses (including insurance).

4.7. If 10 Business Days after the day on which Lifos notified the Customer that the Lifos Products were ready for delivery the Customer has not collected or taken actual delivery of them, Lifos may resell or otherwise dispose of part or all of the Lifos Products and account to the Customer for any excess over the price of the Lifos Products or charge the Customer for any shortfall below the price of the Lifos Products.

4.8. Lifos may deliver the Lifos Products 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. WARRANTY

5.1. Lifos warrants that on delivery, and for a period of five years from the date of delivery (**Warranty Period**), the Lifos Products shall:

5.1.1. conform in all material respects with any applicable Specification; and

5.1.2. be free from material defects in design, material and workmanship.

5.2. During the first 12 months following the date of delivery of the Lifos Products, subject to clause 5.4, if:

5.2.1. The Customer gives notice in writing to Lifos during the Warranty Period within a reasonable time of discovery that some or all of the Lifos Products do not comply with the warranty set out in clause 5.1;

5.2.2. Lifos is given a reasonable opportunity of examining such Lifos Products; and

5.2.3. the Customer (if asked to do so by Lifos) returns such Lifos Products to Lifos' place of business at the Customer's cost, Lifos shall, at its option, repair or replace the defective Lifos Products, or refund the price of the defective Lifos Products in full.

5.3. Following the first 12 months of the date of delivery and until the expiry of the Warranty Period, if:

5.3.1. the Customer gives notice in writing to Lifos during the Discretionary Refund Period within a reasonable time of discovery that some or all of the Lifos Products do not comply with clause 5.1.1;

5.3.2. Lifos is given a reasonable opportunity of examining such Lifos Products; and the Customer (if asked to do so by Lifos) returns such Lifos Products to Lifos' place of business at the Customer cost, the Supplier shall, at its sole option, refund a proportion of the price of the defective Lifos Products.

Any refund given under this clause 5.3 shall be calculated by Lifos acting in its sole discretion having regard to (without limitation) the age, condition, use and the then market value of the Lifos Products. For the avoidance of doubt, Lifos shall be under no obligation to give any refund under this clause.

- 5.4. Lifos shall not be liable for the Lifos Products' failure to comply with the warranty set out in clause 5.1 if:
 - 5.4.1. the Customer makes any further use of such Lifos Products after giving notice in accordance with clause 5.2;
 - 5.4.2. the defect arises because the Customer failed to follow Lifos' oral or written instructions or guidance as to the storage, commissioning, installation, use and maintenance of the Lifos Products or (if there are none) good trade practice regarding the same;
 - 5.4.3. the defect arises as a result of Lifos following any drawing, design or specification supplied by the Customer;
 - 5.4.4. the Customer alters or repairs such Lifos Products without the written consent of Lifos;
 - 5.4.5. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
 - 5.4.6. the Lifos Products differ from their Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
 - 5.4.7. in relation to Lifos Data Products (as defined in clause 11), the Customer cancels its subscription to the App or Website (as defined in clause 11.2) and a defect or fault is not detected as a result.
- 5.5. Except as provided in this clause 5, Lifos shall have no liability to the Customer in respect of the Lifos Products' failure to comply with the warranty set out in clause 5.1.
- 5.6. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.7. These Conditions shall apply to any repaired or replacement Lifos Products supplied by Lifos.
- 5.8. To the extent the Customer supplies any Lifos Products to any of its customers, the warranties set out in this clause 5 and clause 11.1 shall apply to such Lifos Products, subject always to:
 - 5.8.1. the conditions set out in clauses 5 and 11.1;
 - 5.8.2. clause 5.9; and
 - 5.8.3. the prior written consent of Lifos.
- 5.9. The warranties in clauses 5 and 11.1 shall not apply:
 - 5.9.1. in respect of any defect in a Lifos Product which results, in Lifos' opinion, from:
 - 5.9.1.1. any use of the Lifos Products that is not consistent with their normal use, as envisaged by Lifos;
 - 5.9.1.2. normal wear and tear;
 - 5.9.1.3. accidental damage, damage by misuse, or damage resulting from assembly or installation, including where any product which incorporates or is affixed to the Lifos Product has not been properly manufactured, fabricated or installed in accordance with generally accepted industry standards (including in accordance with Lifos' fabrication or installation instructions); or
 - 5.9.1.4. the application of any materials, chemicals or products to the Lifos Products other than in accordance with Lifos' instructions;
 - 5.9.2. to Lifos Products
 - 5.9.2.1. for which Lifos has not received payment in full;
 - 5.9.2.2. that have been supplied, installed or used outside of the United Kingdom without Lifos' prior written consent;
 - 5.9.2.3. that have not been used, handled, maintained, stored, treated or serviced (where appropriate) in accordance with generally accepted industry standards or Lifos' instructions or guidance; or
 - 5.9.2.4. that have been used either in a way that is non-compliant with the warranties hereunder or in accordance with the Contract.

6. TITLE AND RISK

- 6.1. The risk in the Lifos Products shall pass to the Customer on completion of Delivery.
- 6.2. Title to the Lifos Products shall not pass to the Customer until the earlier of:
 - 6.2.1. Lifos receives payment in full (in cash or cleared funds) for the Lifos Products and any other Lifos Products that Lifos has supplied to the Customer in respect of which payment has become due, in which case title to the Lifos Products shall pass at the time of payment of all such sums; and
 - 6.2.2. the Customer resells the Lifos Products, in which case title to the Lifos Products shall pass to the Customer at the time specified in clause 6.4.
- 6.3. Until title to the Lifos Products has passed to the Customer, the Customer shall:
 - 6.3.1. store the Lifos Products separately from all other products held by the Customer so that they remain readily identifiable as Lifos' property;

- 6.3.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Lifos Products;
 - 6.3.3. store the Lifos Products in accordance with any relevant instructions given in relation to them and maintain the Lifos Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 6.3.4. notify Lifos immediately if it becomes subject to any of the events listed in clause 9.1.2 to clause 9.1.4; and
 - 6.3.5. give Lifos such information as Lifos may reasonably require from time to time relating to:
 - 6.3.5.1. the Lifos Products; and
 - 6.3.5.2. the ongoing financial position of the Customer.
- 6.4. Subject to clause 6.5, the Customer may resell or use the Lifos Products in the ordinary course of its business (but not otherwise) before Lifos receives payment for the Lifos Products. However, if the Customer resells the Lifos Products before that time:
 - 6.4.1. it does so as principal and not as Lifos' agent; and
 - 6.4.2. title to the Lifos Products shall pass from Lifos to the Customer immediately before the time at which resale by the Customer occurs.
 - 6.5. At any time before title to the Lifos Products passes to the Customer, Lifos may:
 - 6.5.1. by notice in writing, terminate the Customer's right under clause 6.4 to resell the Lifos Products or use them in the ordinary course of its business; and
 - 6.5.2. require the Customer to deliver up all Lifos Products in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Lifos Products are stored in order to recover them.

7. PRICE AND PAYMENT

- 7.1. The price of the Lifos Products shall be:
 - 7.1.1. the price set out in the Order Acknowledgment.
 - 7.1.2. the price as may otherwise be agreed between the parties in writing; or
 - 7.1.3. if no price is quoted, the price set out in Lifos' published price list in force as at the date of delivery.
- 7.2. Lifos may, by giving notice to the Customer at any time before delivery, increase the price of the Lifos Products to reflect any increase in the cost of the Lifos Products that is due to:
 - 7.2.1. any factor beyond Lifos' control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs) (and in which case the Customer may exercise their rights under clause 9.4);
 - 7.2.2. any request by the Customer to change the delivery date(s), quantities or types of Lifos Products ordered, or the Specification; or
 - 7.2.3. any delay caused by any instructions of the Customer or failure of the Customer to give Lifos adequate or accurate information or instructions;
 - 7.2.4. any amendment to a delivery schedule where clause 4.8 applies (and in which case Lifos may invoice the Customer for any of the Lifos Products on or at any time after such amendment is made to a delivery schedule, notwithstanding the provisions of clause 7.4).
- 7.3. The price of the Lifos Products:
 - 7.3.1. excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to Lifos at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - 7.3.2. excludes the costs and charges of insurance and transport of the Lifos Products, which shall be invoiced to the Customer, unless otherwise stated in Lifos' quotation.
- 7.4. Lifos may invoice the Customer for the Lifos Products on or at any time after the completion of delivery or, if so notified by Lifos, on or at any time after Lifos accepts the Order in accordance with clause 2.3
- 7.5. Notwithstanding the other provisions of this clause 7, if any Lifos Product is to be manufactured in accordance with a Specification supplied by the Customer, Lifos shall invoice the Customer for a non-refundable deposit equal to 30% of the total value of the Order on or at any time after Lifos accepts the Order in accordance with clause 2.3.
- 7.6. The Customer shall pay each invoice submitted by Lifos:
 - 7.6.1. within 30 days of the date of invoice; or
 - 7.6.2. in accordance with any credit terms as may be agreed by Lifos and confirmed in writing to the Customer and as may be noted in the Lifos quotation; and
 - 7.6.3. in full and in cleared funds to a bank account nominated in writing by Lifos, and time for payment shall be of the essence of the Contract.
- 7.7. If the Customer fails to make a payment due to Lifos under the Contract by the due date, then, without limiting Lifos' remedies under clause 9, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.7 will accrue each day at 4% a year above the Bank of England's base rate, but at 4% a year for any period when that base rate is below 0%.

7.8. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8. LIMITATION OF LIABILITY

8.1. The restrictions on liability in this clause 8 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

8.2. Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- 8.2.1. death or personal injury caused by negligence;
- 8.2.2. fraud or fraudulent misrepresentation;
- 8.2.4. defective products under the Consumer Protection Act 1987.

8.3. Subject to clause 8.2, Lifos' total liability to the Customer for any type of loss shall not exceed an amount equal to the total value of the Contract.

8.4. Subject to clause 8.3, the following types of loss are wholly excluded:

- 8.4.1. loss of profits;
- 8.4.2. loss of sales or business;
- 8.4.3. loss of agreements or contracts;
- 8.4.4. loss of anticipated savings;
- 8.4.5. loss of use or corruption of software, data or information;
- 8.4.6. loss of or damage to goodwill;
- 8.4.7. indirect or consequential loss; and
- 8.4.8. any other unforeseeable loss.

8.5. This clause 8 shall survive termination of the Contract.

9. TERMINATION

9.1. Without limiting its other rights or remedies, Lifos may terminate this Contract with immediate effect by giving written notice to the Customer if:

- 9.1.1. the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- 9.1.2. the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 9.1.3. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 9.1.4. the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

9.2. Without limiting its other rights or remedies, Lifos may suspend provision of the Lifos Products under the Contract or any other contract between the Customer and Lifos if the Customer becomes subject to any of the events listed in clause 9.1.2 to clause 9.1.4, or Lifos reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

9.3. Without limiting its other rights or remedies, Lifos may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

9.4. The Customer may terminate the Contract with immediate effect by giving written notice to Lifos if Lifos exercises its rights under clause 7.2.1. If the Customer exercises its rights under this clause 9.4, it shall be the Customer's exclusive remedy and extinguishes any other rights the Customer may have.

9.5. Subject always to clause 7.5, on termination of the Contract for any reason, the Customer shall immediately pay to Lifos a percentage of Lifos' outstanding unpaid invoices and interest as follows:

Percentage (%) of Lifos' outstanding unpaid invoices and interest payable by the Customer to Lifos:	
Date of termination before the date quoted for delivery under clause 4.5:	
Up to 1 calendar month.....	100%
Between 1 and 3 calendar months	50%
Between 3 and 6 calendar months	20%
More than 6 calendar months	5%

9.6. In respect of Lifos Products supplied but for which no invoice has been submitted, Lifos shall submit an invoice, which shall be payable by the Customer immediately on receipt.9.7.

9.7. Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, 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.

9.8. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

10. PRODUCT RECALL

10.1. If the Customer becomes aware of or is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Lifos Products from the market ('**Recall Notice**') it must immediately notify Lifos in writing and attach a copy of the Recall Notice.

10.2. Unless required by law, the Customer may only undertake a recall or withdrawal of the Lifos Products from the market with the written permission of Lifos and in accordance with clause 10.4.

10.3. Lifos may issue a notice to recall or withdraw the Lifos Products from the market ('**Voluntary Recall Notice**') if:

- 10.3.1. the supply or use of the Lifos Products infringes, or may infringe, a third party's intellectual property rights;
- 10.3.2. the Lifos Products are, or may be, unsafe;
- 10.3.3. the Lifos Products are, may be, or may become illegal or non-compliant with any law, regulation or government agency or industry standard;
- 10.3.4. a defect in any Lifos Product may cause harm to Lifos' reputation or brand; or
- 10.3.5. any other reasonable ground.

10.4. The Customer must:

- 10.4.1. comply with any Recall Notice or Voluntary Recall Notice; and
- 10.4.2. give such assistance as Lifos reasonably requires to recall or withdraw the relevant Lifos Product from the market, and comply with Lifos' instructions about the process of implementing that recall or withdrawal, where applicable.

11. DATA PRODUCTS

11.1. To the extent the Lifos Products are used to generate data or are otherwise used for data collection, storage, and processing, including (without limitation) in relation to the LiQ data pack, technical data and data relating to environmental, social and governance business standards and principles ('**Lifos Data Products**'):

- 11.1.1. the Customer shall have sole responsibility for the legality, completeness, reliability, integrity, accuracy and quality of all such data;
- 11.1.2. Lifos makes no representation, warranty or commitment in relation to the use of or reliance on any such data; and
- 11.1.3. Lifos shall have no liability whatsoever and howsoever arising in connection with any such data or the Customer's use thereof.

11.2. **Licence.** Lifos hereby grants the Customer a non-exclusive licence to use and access:

- 11.2.1. LiQ Data mobile application software ('**App**') and any updates or supplements to it.
- 11.2.2. The related online website (<http://www.liqdata.co.uk/>) ('**Website**').

(the '**Licence**') as permitted in these terms for a period of 1 year from the date of Delivery or collection of the Lifos Products ('**Effective Date**') (the '**Initial Subscription Period**'). Use of the App and Website will allow the Customer to access data regarding the Lifos Data Product, including basic telemetry information such as the state of the charge of the batteries, the power used, estimated diesel saved and estimated carbon dioxide saved ('**Product Data**').

The Product Data shall remain available on the App and Website for the Customer's visibility from the date on which the Product Data was recorded for a period of 18 months. Lifos shall have access to such Product Data for a period of 5 years from the date it was recorded. Clauses 11.8, 11.11 and 11.12 contain further information on how the Customer can use the App and the Website.

11.3. **Term.** The Licence shall commence on the Effective Date and shall continue for the Initial Subscription Period and, thereafter, shall be automatically renewed for subsequent periods of 12 months (each, a '**Renewal Period**'), unless:

- 11.3.1. either party notifies the other party of termination in writing or otherwise terminates the subscription to the App through the relevant Appstore before the end of the Initial Subscription Period or any Renewal Period; or
- 11.3.2. the Customer fails to pay the Subscription Fees before the anniversary of the Effective Date at the start of each Renewal Period; or
- 11.3.3. it is otherwise terminated in accordance with the provisions of this agreement

11.4. **Subscription Fees.** The annual subscription fee shall be set out in the Order ('**Subscription Fee**') which shall be payable in full by direct debit on the first day of each Renewal Period, unless terminated in accordance with clause 11.3.1.

Lifos shall be entitled to increase the Subscription Fee at the start of any relevant Renewal Period upon no less than 60 days' written notice to the Customer.

11.5. **Your Privacy.** Under data protection legislation, we are required to provide the Customer with certain information including who we are, how we process your personal data and for what purposes and your rights in relation to your personal data and how to exercise them. This information is provided in here <https://www.lifos.co.uk/privacy/>.

12. www.apple.com and www.play.google.com **terms also apply.** The ways in which you can use the App may also be controlled by the www.apple.com and www.play.google.com's rules and policies of <https://www.apple.com/legal/ssl/docs/AppStoreApp.pdf> and https://play.google.com/intl/en_uk/about/play-terms/index.html and www.apple.com and www.play.google.com's rules and policies will apply instead of these terms where there are differences between the two.
- 12.1. **Website terms also apply.** The ways in which you can use the Website may also be controlled by the Website's terms and conditions – see 11.6
- 12.2. **How you may use the App and Website.** In return for your agreeing to comply with these terms you may:
- 12.2.1. download or stream a copy of the App and view, use and display the App and the Service on such devices for your personal / business purposes only.
- 12.2.2. Access the Website from any device with an internet browser (you shall require a username and password which shall be managed by an Lifos).
- 12.2.3. Receive and use any update of the App or Website.
- 12.3 **Updates to the App and Website.** From time to time we may automatically update the App and Website to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively, we may ask you to update the App for these reasons. If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App.
- 12.4. **Licence restrictions.** You agree that you will:
- 12.4.1. not rent, lease, sub-license, loan, provide, or otherwise make available, the App or Website in any form, in whole or in part;
- 12.4.2. not copy the App or Website, except as part of the normal use of the App or Website or where it is necessary for the purpose of back-up or operational security;
- 12.4.3. not translate, merge, adapt, vary, alter or modify, the whole or any part of the App or Website;
- 12.4.4. not reverse engineer the whole or any part of the App or the Website;
- 12.4.5. comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or the Website.
- 12.5. **Acceptable use restrictions.** You must:
- 12.5.1 not use the App or Website in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the App or Website;
- 12.5.2 not infringe our intellectual property rights or those of any third party in relation to your use of the App or Website;
- 12.5.3 not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or Website;
- 12.5.4 not use the App or Website in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users.
- 12.6. **Intellectual Property Rights.** All intellectual property rights in the App and Website throughout the world belong to us (or our licensors) and the rights in the App and the Website are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, the Website, or any data harvested from the Lifos Data Products, other than the right to use them in accordance with these terms.
- 12.7. **Check that the App and the Website are suitable for you.** The App and the Website have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Website (as described on the Appstore site and on the Website) meet your requirements.
- 12.8. **Limitations to the App and the Website.** The App and the Website are provided for general information. They do not offer advice you should rely on. You should consider seeking professional or specialist advice before taking, or refraining from taking, any action on the basis the information obtained from the App or Website. We make no representations, warranties or guarantees, whether express or implied, that such information or data is accurate, complete or up to date or that the Product Data will be available either via the App or Website any particular time.
- 12.9. **Termination.** In relation to the provisions in clause 11 only, such provisions shall commence on the Effective Date and shall continue for the Initial Subscription Period and any subsequent Renewal Period. Lifos may end the Customers right to use the App and the Website at any time by contacting the Customer if the Customer has breached these terms.
- 13. CUSTOMER SECURITY OBLIGATIONS**
- 13.1. The Customer must at all times implement appropriate technical and organisational measures against unauthorised or unlawful access, use or exploitation of its computers, systems, or networks, and against all accidental, unauthorised or unlawful alteration, cancellation, or confirmation of any Order details or Customer details.
- 13.2. To the extent any Order or Customer details are altered, cancelled or confirmed as a result of unauthorised or unlawful access, use or exploitation of the Customer's computers, systems, or networks:
- 13.2.1. the Customer shall inform Lifos immediately upon becoming aware of the event; and
- 13.2.2. Lifos shall have no liability whatsoever and howsoever arising in connection with its reliance on such Order or Customer details in its performance of its obligations under the Contract.
- 14. FORCE MAJEURE**
- 14.1. Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly.
- 15. GENERAL**
- 15.1. **Assignment and other dealings.**
- 15.1.1. Lifos may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.1.2. The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Lifos.
- 15.2 **Confidentiality.**
- 15.2.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.2.
- 15.2.2. Each party may disclose the other party's confidential information:
- 15.2.2.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.2; and
- 15.2.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.2.3. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 15.3. **Entire agreement.** The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 15.4. **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 15.5. **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 15.6. **Severance.** If any provision or part-provision of the Contract 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 the Contract. If any provision of the Contract is deemed deleted under this clause 14.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 15.7. **Notices.** Any notice required to be given pursuant to this Contract shall be in writing and shall be delivered by prepaid post or email to the relevant party's address or email address on the Order or any other address as either party notifies to the other from time to time. Any notice shall be deemed to have been given 2 days after posting or immediately where sent by email. No notice under clauses 14.9 and 14.10 shall be sent by email.
- 15.8. **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 15.9. **Governing law.** The Contract, 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 laws of England.
- 15.10. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.