

TERMS & CONDITIONS OF MAINTENANCE SERVICES DELIVERY

1. INTERPRETATION

1.1 In these Conditions:

“**Company**” means **Procurri Plc.**

“**Conditions**” means the standard terms and conditions of business as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed either in writing or in a Contract (new or pre-existing in good standing) between the Company and the Customer.

“**Contract**” means the contract for the purchase and/or re-sale of the supply of Services.

“**Customer**” means the party who enters into a contract with the Company for the supply of Services or who accepts a quotation of the Company for the supply of Services or whose Order for the Services is accepted by the Company.

“**Equipment**” means the Customer’s computing, storage and networking equipment subject to the Services.

“**Force Majeure**” means an event, not within the control of the Party affected, which the Party affected is unable to prevent, avoid or remove and shall include any unforeseeable circumstances, including, without limitation:

- a. acts of God, natural catastrophes including but not limited to earthquakes, storms, floods, fires, subsidence and exceptionally inclement weather and subterranean spontaneous combustion;
- b. acts of terrorism, sabotage or criminal damage or a public enemy;
- c. war (whether declared or not), hostilities, invasion, armed conflict, act of foreign enemy, rebellion, insurrection, civil war, revolution or usurped power;
- d. nuclear explosion, radioactive or ionizing radiation;
- e. riots, labour unrest or other industrial disturbances affecting the performance of the Services and which are not the fault of the parties; and
- f. regulation or order by the Government or a Competent Authority including but not limited to a restriction of movement or lockout.

“**Order**” means the Customer’s order for Services set out in the Company’s quotation and/or SOW issued to the Customer, via the Customer’s Purchase Order (“**CPO**”) or the Customer’s written acceptance of the Company’s quotation and/or SOW as the case may be.

“**Services**” means the maintenance services provided or carried out by the Company in accordance with these Conditions.

“**SOW**” means Statement of Works.

“**Writing**” includes e-mail, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience sake and shall not affect their interpretation.

2. SCOPE AND EFFECT

- 2.1 These Conditions shall be incorporated into and shall apply to all of the Company's valid quotations and/or SOW issued to the Customer for Services. Accordingly, all of the Company's valid quotations and/or SOW issued to the Customer for Services shall form part of these Conditions. If a Customer is unable to agree to these Conditions, then the Company's valid quotations and/or SOW issued to the Customer for Services shall be immediately null and void. It shall be the Customer's responsibility to notify the Company immediately if the Customer is unable to agree to the Conditions.
- 2.2 These Conditions shall be the sole terms and conditions under which the Services shall be provided. All other terms, conditions or other representations, whether written or oral, are excluded from these Conditions, including any terms and conditions which the Customer may purport to apply under any Order for Services. In the event of any conflict or inconsistency between a term proposed by the Customer which is contained in any Order, and a term of these Conditions, the term of these Conditions shall prevail to the extent of the conflict or inconsistency, unless the term of the Order has been expressly accepted by the Company in writing as a variation of these Conditions.
- 2.3 These Conditions set forth the terms and conditions by which the Customer may order, and the Company will provide maintenance services to the Equipment and identifies the obligations and responsibilities of the Company and the Customer with respect to the Services ordered pursuant to this Conditions.
- 2.4 The Customer shall be deemed to have read, understood, accepted and agreed to be bound by these Conditions by either (i) placing an Order, (ii) using the Services or allowing others to use the Services, or (iii) making any payment for the Services.
- 2.5 Any of the Services provided by the Company to the Customer become subject to these Conditions when the Company accepts an Order from the Customer by (i) sending the Customer a written confirmation/acceptance or (ii) providing the Services.
- 2.6 The term of these Conditions shall be perpetual until terminated as provided for herein. The Services Ordered by Customer shall be for the term set forth in Company's quotations and/or SOW for the Order.

3. SERVICES

- 3.1 The Services provided to the Customer will be at the service levels identified in the Company's quotation and/or SOW. In the event that terms and conditions in the Company's quotation and/or SOW conflict with these Conditions, the conflicting provisions of the Company's quotation and/or SOW will control and take precedence with all other provisions of these Conditions remaining the same.
- 3.2 **Subcontracting:** The Customer acknowledges and agrees that the Company may utilize subcontractors to perform the Services, provided that the Company shall remain responsible for their performance.
- 3.3 The Company shall endeavour to perform the Services in accordance with any timescales agreed between the Company and the Customer but time of performance of the Services shall not be of the essence of these Conditions.

4. CUSTOMER'S RESPONSIBILITIES

- 4.1 **Functionality:** The Customer acknowledges that all the Equipment identified in the Company's quotation and/or SOW are completely functional at the commencement of the Services. Any Equipment discovered to be non-functional at the commencement of the Services shall be subject to time and material charges, payable by the Customer, in order to restore functionality to the Equipment.



- 4.2 **Licenses:** The Customer is responsible for obtaining and maintaining all appropriate hardware and software licenses for the Equipment prior to the date on which the Services commence. The Customer represents and warrants that it has all proper legal rights, title, and license to all hardware, software and/or passwords of the Equipment accessed pursuant to the provision of the Services. The Customer is solely and absolutely responsible for obtaining any and all software and firmware updates and upgrades and obtaining non-publically available OEM Intellectual Property of all the Equipment.
- 4.3 **Data:** The Customer is responsible for maintaining proper and accessible backups of all data, software, and firmware for the Equipment. The Company shall not be responsible for any data losses or interruption of services or access to systems experienced by the Customer.
- 4.4 **Agency:** The Customer appoints the Company as its authorized agent representing the Customer, as required, while conducting certain business activities relating to the support and maintenance of the Equipment. The Customer grants the Company the authorization to facilitate any hardware warranty support with the Original Equipment Manufacturer (“OEM”). The Customer further grants the Company the authorization to act on the Customer’s behalf with all the rights and privileges entitled to the Customer by the OEM, including, hardware warranty services, software patch management and application, and any other service, including access to OEM’s proprietary information to which the Customer is entitled. The Company and the Customer agree that the same protections and confidentiality provided by Customer to the OEM will also be provided by the Company, acting on the Customer’s behalf. No rights or license are transferred or assigned by this these Conditions. The Company is simply designated as a *bona fide* agent to act on the Customer’s behalf to the OEM in order to provide the Services for the Equipment.
- 4.5 **Customer Orders:** Every Order provided by the Customer to the Company shall be via a CPO that clearly references the Company’s quotation and/or SOW under which the Services are being ordered and which set forth the fees to be paid by the Customer for those Services. Provisions in a CPO that conflict with or attempt to modify, amend, add to, or remove terms in these Conditions or the Company’s quotation and/or SOW shall be null and void unless expressly accepted in writing by the Company. The Customer shall be responsible to the Company for ensuring the accuracy of the CPO (including any applicable specifications) submitted by the Customer, and for giving the Company any necessary information relating to the Services within a sufficient time to enable the Company to perform the Services in accordance with these Conditions.
- 4.6 **Order Changes:** If the Customer desires to change the Services in an Order, the Customer shall provide written notice to the Company of the desired changes. The Company will assess the impact of the desired changes to the Services and, if, in the Company’s reasonable opinion, the desired changes are possible and desirable, the Company shall prepare and provide to the Customer a Change Order Document incorporating the description of the changes to be made and the cost of those changes. To the extent the Customer accepts the Change Order Document by signing it, the Services under a Customer’s Order affected by those changes enumerated in the Change Order Document shall be deemed amended to incorporate those changes.
- 4.7 **Services Request:** The Customer shall initiate a Service Request:
- using the online Procurri Maintenance Portal at [<https://maintenance-portal.force.com/login>]; or
 - by sending an e-mail to Protect@procurri.com; or
 - by calling the Customer Service telephone numbers posted on the Procurri website.
- To successfully initiate a Customer Service Request ticket, the Customer must provide the serial number of the Equipment requiring Services. A Service Request shall not be valid until the Customer has provided a valid serial number of the Equipment.
- 4.8 **Passwords:** The Customer is responsible for maintaining all passwords for the Equipment and will provide all necessary passwords to the Company for the purposes of providing the Services.

- 4.9 **Consumables:** Replacement of consumables (e.g. ribbons, ink, batteries, and other such supplies) that are “consumed” and/or used by the Equipment are the Customer’s sole and absolute responsibility and not covered by the Company under these Conditions.
- 4.10 **Unsupported Equipment:** Should Customer request Services for Equipment not identified under the Company’s quotation and/or SOW or requests a service level greater than the service levels identified under the Company’s quotation and/or SOW, the Customer agrees to pay the incremental time and material rates for such additional Services provided by the Company.

Time and material rates are as follows (for the USA only):

Mondays to Fridays (non-holidays) – 8:00 am to 5:00 pm = USD\$315/hr, subject to a 4-hour minimum plus travel time). Thereafter, USD\$250 for each additional hour.

All other times = USD\$415/hr, subject to a 4-hour minimum plus travel time. Thereafter, USD\$350/hr for each additional hour.

Materials Charges = OEM list price less 15%.

Response times and materials availability are on an “as available” basis. All rates set forth herein are subject to change by the Company upon reasonable and advance notice provided to the Customer or may be revised/amended in the Company’s quotations and/or SOW issued to Customer pursuant to this these Conditions. The Company shall make reasonable commercial efforts to meet the Customer’s needs but has no obligation to provide the Services for any unsupported Equipment.

- 4.11 **Equipment Configurations:** The Customer shall provide the Company with all detailed hardware and software configurations for the Equipment required by the Company and suitable for determining the exact types and quantities of Field Replaceable Units (i.e. spare parts) (“**FRU**”) required to meet the Customer’s Services requirements. If for whatsoever reason(s), the Customer is unable to provide the required information to the Company, the Company shall stock the required FRUs on a best effort basis.
- 4.12 **Access & Information:** The Customer shall provide the Company, its employees, agents, consultants or subcontractors with access to the Customer’s premises, office accommodation and any other facilities as reasonably required by the Company to provide the Services. The Customer shall provide the Company with such information and material which may reasonably be required by the Company to provide the Services and ensure that such information is accurate in all material respects. The Customer represents and warrants that all of the information provided by the Customer to the Company (including without limitation personal particulars and contact information) is accurate and complete.
- 4.13 **Customer’s Default:** If the Company’s 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’s Default**”), the Company shall, without limiting its other rights or remedies, have the right to suspend performance of the Services until the Customer remedies the Customer’s Default, and to rely on the Customer’s Default to relieve it from the performance of any of its obligations to the extent the Customer’s Default prevents or delays the Company’s performance of any of its obligations for the Services; and the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company’s failure or delay to perform any of its obligations for the Services as set out in this Clause 4.13. Further, the Customer shall reimburse the Company upon demand in Writing for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer’s Default.
- 4.14 **Return Freight:** The Customer shall pay return freight charges to return any defective parts requested by the Company.
- 4.15 **Compliance with Laws:** The Customer agrees that it shall at all times comply with all applicable laws.



5. PRICE AND PAYMENTS

- 5.1 The price of the Services shall be as set forth in Company's quotations and/or SOW for the Order. The Company reserves the right, by giving reasonable notice to the Customer in Writing at any time before the Services delivery, to increase the price of the in Services in an Order to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Services which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.
- 5.2 The Company shall be entitled to render an invoice to the Customer in respect of the Services, at any time on or after completion of the Services. Payment of the Customer's invoices are net due in full within 30 days of the invoice date. The time of payment shall be of essence under these Conditions.
- 5.3 All fees provided under an Order are exclusive of and do not include any and all taxes and duties, however designated or levied, including, without limitation, any personal property, retail sales, goods and services, use or value added taxes in force now or in the future. Each invoice rendered by the Company to the Customer will state separately the applicable taxes owed by Customer.
- 5.4 If the Customer fails to make any payment on the due date, then without prejudice to any other rights or remedies available to the Company, the Company shall be entitled to:
- a. cancel these Conditions or suspend any further performance of any Services for the Customer until after payment has been received by the Company;
 - b. appropriate any payment made by the Customer (under any other Contract between the Customer and the Company) for the Services as the Company may think fit (notwithstanding any purported appropriation by the Customer); and
 - c. charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 4% per annum above the Company's current bank's base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 5.5 **Set-off:** The Company may at any time (without notice to the Customer) set off any liability of the Customer to the Company against any liability of the Company to the Customer, whether any such liability is present or future, liquidated or unliquidated, under these Conditions or not and irrespective of the currency of its denomination. Any exercise by the Company of its rights under this Condition shall be without prejudice to any other rights or remedies available to it under these Conditions or otherwise.
- 5.6 The Customer shall pay all amounts due under an invoice in full without any set-off, counterclaim, deduction or withholding, except as required by law in which case the Customer will provide notice of such withholding in Writing to the Company.

6. TERMINATION AND REMEDIES

- 6.1 **Mutual Non-curable Events of Termination:** The Company and the Customer shall each have the right, at their option, to terminate these Conditions and all Services thereunder by giving notice to the other in Writing, in the event the other shall be adjudicated bankrupt or shall petition for consent to any relief under any bankruptcy, reorganization, receivership, liquidation, compromise, or any moratorium statute, whether now or hereafter in effect, or shall petition for the appointment of a receiver, liquidator, trustee, or custodian for all or a substantial part of its assets, or if a receiver, liquidator, trustee, or custodian is appointed for all or a substantial part of its assets and is not discharged within thirty (30) days after the date of such appointment.



- 6.2 **Curable Events of Termination:** Either party shall have the right to terminate these Conditions and all Services thereunder by giving notice in Writing to the other party upon any default in the performance or breach of these Conditions or any provision in the Company's quotation and/or SOW issued pursuant to these Conditions, if the other party fails to remedy or substantially begin to cure such breach within thirty (30) days of receipt of notice of such breach.
- 6.3 **Termination Notice:** The notice of election to terminate these Conditions shall be in Writing and shall state the grounds upon which termination is based.
- 6.4 **Effect of Termination:** Termination of these Conditions does not limit either party's right to obtain injunctive relief and/or other available remedies. Termination does not relieve either party's obligations to pay all fees that accrued prior to termination. In the event of termination pursuant to Clause 6.1 or 6.2, the Customer shall be entitled to a pro-rata refund of any fees previously paid by the Customer in advance for Services which have not been rendered.

7. WARRANTIES

- 7.1 The Company warrants that the Services shall be performed in a professional and workmanlike manner, by qualified and competent personnel in accordance with generally accepted industry standards.
- 7.2 Except for the warranty set forth in Clause 7.1, the Company disclaims any and all warranties of any kind whether express, implied, or statutory including, without limitation, the implied warranties of title, accuracy, completeness, non-infringement, merchantability, satisfactory purpose, and fitness for a particular purpose.

8. RELATIONSHIP

- 8.1 In the performance of these Conditions, both parties shall be deemed to be acting in the capacity of an independent contractor with respect to the other. Neither party shall be deemed to be a partner of nor joint venture with the other, and the employees and agents of one party engaged in performing any services hereunder shall not be deemed to be the employees or agents of the other.

9. LIABILITY

- 9.1 In no event shall either party have any liability for loss of profits, indirect, special, incidental, or consequential damages, subject to either party's gross negligence or willful misconduct that causes personal injury or death or causes damages to tangible property.
- 9.2 Each party's liability under these Conditions shall not exceed the actual annual fees paid thereunder.
- 9.3 Each party agrees to indemnify, defend and hold harmless the other party and each of their respective subsidiaries, affiliates, directors, officers, employees, shareholders, members, consultants, agents and other owners from and against any and all losses, liabilities, claims, obligations, costs, expenses, made by a third party arising out of or in connection with any breach of any warranties (including those stated in Clause 7.1), representations and obligations of the other party arising out of these Conditions.
- 9.4 Each party agrees to defend and hold the other party, its officers, directors, employees, agents, and assigns harmless from any claims or liabilities (a) due to any voluntary or involuntary act or omission of a party or any employee or agent of that party including, but not limited to, any judgments, administrative fines, or court costs assessed against the party by reason of error, omission or negligence or (b) arising out of noncompliance with local, state, and federal statutes, laws, ordinances, or regulations.



10. FORCE MAJEURE

- 10.1 Neither the Company nor the Customer shall be liable for non-performance or delay of performance under these Conditions should such non-performance or delay arises, directly or indirectly, out of an event of Force Majeure. If a Force Majeure event occurs, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for so long as such circumstances prevail.
- 10.2 If an event of Force Majeure occurs by reason of which a party is unable to perform its obligations under these Conditions (or any of them), such party shall inform the other party as soon as reasonably practicable thereafter of the occurrence of that event of Force Majeure and shall use all reasonable endeavours to mitigate any delay or interruption to the Services.
- 10.3 If either party is unable to perform any of its obligations under these Conditions as a result of the continuing occurrence of an event of Force Majeure for a continuous period of more than six (6) months, or such other period as mutually agreed upon by both parties, and such event of Force Majeure is of such severity so as to frustrate the intention of these Conditions, then either party may, by written notice, terminate these Conditions, and neither of the parties hereto, save for any antecedent breaches, shall be liable to the other.
- 10.4 For the avoidance of doubt, the parties shall continue to perform those parts of the obligations not affected, delayed or interrupted by an event of Force Majeure and such obligations shall continue in full force and effect subject to the termination of these Conditions as provided for in Clause 10.3.

11. CONFIDENTIALITY

- 11.1 The Company and the Customer understand and agree that the information provided to each other pursuant to these Conditions is confidential in nature, including the existence of this relationship. Each party agrees to treat all information received from the other party with the same degree of care and confidence as it treats its own confidential information, to use it only for the business purposes under these Conditions and to not disclose it to any third party without the prior written consent of the disclosing party. Under no circumstances shall the Customer disclose any of the Company's financial information, pricing, service methods, or procedures to any third party. In the event disclosure is sought pursuant to subpoena, or other legal process, the recipient of such a request shall notify the disclosing party and cooperate with any attempt to protect the disclosure of confidential information by the disclosing party.

12. NON-SOLICITATION

- 12.1 The Customer and the Company agree that during the term of their relationship and for a period of one (1) year following the termination of these Conditions that they shall refrain from directly or indirectly hiring, soliciting, or seeking to hire any employee of the other, or in any manner attempting, directly or indirectly, to influence, induce, or encourage any employee to leave the employ of the Customer or the Company (as the case may be), and that they shall refrain from disclosing the identity and job titles of each other's employees to any third party. This provision does not restrict any person or party from responding to an open advertisement or solicitation of employment or the Company or the Customer from hiring a person responding to such open advertisement or solicitation.

13. GOVERNING LAW AND VENUE

- 13.1 These Conditions shall be governed and interpreted under the laws of the State of Georgia in the United States of America without reference to its conflicts of law rules or doctrine and the parties expressly agree that any dispute arising under these Conditions or any of the Company's quotation and/or SOW or PO issued pursuant to these Conditions shall be heard in a court of competent jurisdiction in the State of Georgia.



- 13.2 Each of the Parties irrevocably and unconditionally submits to the exclusive jurisdiction of the State and federal courts located in the State of Georgia. Each of the Parties irrevocably and unconditionally waives any objection that it may have to the laying of venue of any suit, action, or proceeding arising out of or relating to these Conditions or any of the Company's quotation and/or SOW or PO issued pursuant to these Conditions in the state and federal courts located in the State of Georgia. Each of the Parties irrevocably waives the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

14. GENERAL

- 14.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 14.2 The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under these Conditions and may subcontract or delegate in any manner any or all of its obligations under these Conditions to any third party.
- 14.3 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under these Conditions.
- 14.4 No waiver by the Company of any breach of these Conditions by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.5 Except as otherwise provided herein, all costs and expenses incurred in connection with these Conditions and the transactions contemplated hereby will be paid by the party incurring such costs and expenses.
- 14.6 In the event any party instigates litigation or any proceeding to enforce or protect its rights under these Conditions, the party substantially prevailing in any such litigation or proceeding shall be entitled, in addition to all other relief, to reasonable attorneys' fees, out-of-pocket costs and disbursements whether such sums are expended with or without suit, at trial, in a bankruptcy proceeding or on appeal.
- 14.7 These Conditions constitutes the entire agreement between the Company and the Customer and supersedes all other prior agreements, representations and/or understandings, both written and oral, between the parties with respect to the transactions contemplated hereby. There are no restrictions, agreements, promises, warranties, covenants or undertakings with respect to the transactions contemplated hereby other than those expressly set forth herein.
- 14.8 These Conditions are not intended to and shall not confer upon, any other party other than the parties hereto, any rights or remedies with respect to the subject matter hereof.
- 14.9 If any one or more of the provisions of these Conditions shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of these Conditions shall not be affected thereby. To the extent permitted by applicable law, each party waives any provision of law that renders any provision of these Conditions invalid, illegal or enforceable.
- 14.10 No action, regardless of form, arising out of the transactions under these Conditions may be brought by any party more than one (1) year after the cause of action has accrued.
- 14.11 The Company may from time to time vary or amend these Conditions by posting the amended Conditions at this site. Any use of the Services after the publication of the amended Conditions will be deemed to be acceptance of the amended Conditions by the Customer. If the Customer does not agree to the amended Conditions, the Customer may terminate the Services and/or any Order with thirty (30) days' notice to the Company in Writing.