



Terms of Trade

1. Definitions

1.1. In these Terms of Trade the following words and phrases have the following meanings;

BigChange Cyprus Limited (Registered in Cyprus with Company Number 391487) of 30 Byzantou Str, Strovolos, P.O.Box 28369, 2093 Nicosia, or its successors in title or assigns;

Business Day a day other than a Saturday, Sunday or public holiday in Cyprus

Browser System a web browser application to enable the Customer to access its information on the System via world wide web;

Contract the contract between the Customer and BigChange Cyprus for the supply and installation of the System as detailed in the Order and which shall incorporate these Terms of Trade;

Contract Period the period of time set out in the Order.

Customer the individual, partnership or company named in the Order;

Delivery Note a form to be signed by the Customer acknowledging delivery of the Equipment in full and in satisfactory and acceptable condition;

Data Protection Law means any and all applicable laws and/or regulations relating to privacy and/or data protection in relation to the Processing of Personal Data, including any amendments or supplements to or replacements of such laws and/or regulations and including without limitation and as applicable: (i) the General Data Protection Regulation 2016/1679 ("GDPR"), (ii) the Electronic Communications and Postal Regulation implementing the EU Directive on Privacy and Electronic Communications (2002/58/EC); and (iii) the Cyprus Data Protection Law 125(I)2018.

Equipment the tablet computer/pda or vehicle satellite tracking devices to be installed in or on the Customer's vehicles and/or any other hardware ordered by the Customer in the Order;

Finance Company a bank or other financial institution which is the Owner as defined in the Service Agreement;

Finance Confirmation confirmation by BigChange Cyprus that the Finance Company has agreed to enter into a Service Agreement with the Customer for the purpose of the Contract;

Fitting Address the Customer address provided in the Order where the Equipment will be installed, if applicable;

GDPR General Data Protection Regulation ((EU) 2016/679))

Installer an installer of Equipment who will be either a BigChange Cyprus employee or a sub-contractor who has been authorised and approved by BigChange Cyprus ;

Job Cards and Certificates An electronic reproduction of an existing paper form which can be output from the System.

Liability Amount the amount specified in 6.1 below;

Order the specific detail of the Contract;

Personal Data has the meaning given to it by the Data Protection Legislation;

Purchase Price the price stated in the Order for the purchase by the Customer of the Equipment and/or System sold by BigChange Cyprus to the Customer;

Price List the listing of standard prices which can be downloaded by visiting <http://www.jobwatchcyprus.com>

Service Agreement the agreement between BigChange Cyprus and the Customer for the provision of services in relation to the System;

Service Payments the payments to be made for the Services as set out on the Service Agreement;

Services the services relating to the System set out in the Contract between BigChange Cyprus and the Customer, including basic training, System services, customer support and text messaging, together with those shown on the Order and any other services BigChange Cyprus agrees to supply to the Customer during the Service Term

Service Term the period as set out in the Order;

Software the app and web browser interface (including all related documentation and manuals) supplied by BigChange Cyprus ;

System the BigChange Cyprus Mobile Resource Management system including, without limitation, the Equipment and the Software supplied by BigChange Cyprus and any other equipment ordered by the Customer in the Order;

System Warranty the express warranty given by BigChange Cyprus relating to the Equipment and/or System in the Order.

Warranty Period the warranty period as defined in Clause 5.3

1.2 Reference in these Terms of Trade to the singular shall be deemed to include the plural and vice versa.

1.3 Headings to Clauses are included for ease of reference and shall not affect the interpretation of these Terms of Trade.

1.4. References to written and in writing shall include email but not fax

2. The process of entering into Contracts, Risk and Title

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Terms of Trade.

2.2 The Order shall only be deemed to be accepted when BigChange Cyprus issues written acceptance of the completed Order at which point and on which date the Contract shall come into existence (**Commencement Date**) and such Contract shall be subject to these Terms of Trade". The terms of the Contract shall take precedence over any terms and Terms of Trade specified in any purchase orders issued by the Customer unless agreed in writing by both parties.

2.3 No variation of a Contract shall be binding unless agreed in writing between the authorised representatives of the Customer and BigChange Cyprus . At the request of either party the other party will verify whether any individual has the requisite authority.

2.4 Any samples, drawings, descriptive matter or advertising issued by BigChange Cyprus , and any descriptions or illustrations contained in BigChange Cyprus 's catalogues or brochures, are issued or published for the sole purposes of giving an approximate idea of the services described in them. They shall not form part of the Contract or have any contractual force.

2.5 If any provision of the Contract is held illegal or unenforceable such provision shall be severed and the remainder of the Contract shall remain in full force and effect unless the business purpose of the Contract is frustrated thereby.

2.6 If the Order is placed based on the Customer entering into a Service Agreement then the Contract shall be conditional on either:

- (i) Finance Confirmation; or
- (ii) agreement for outright purchase of the System under Clause 3.4(ii).

If Finance Confirmation is not received by BigChange Cyprus within 21 days of an Order then Clause 3.4 shall apply.

2.7 Risk in the Equipment shall pass to the Customer when the Equipment is delivered to the Customer. Where the Customer is purchasing Equipment, title in the Equipment will not pass to the Customer until BigChange Cyprus has received payment for the Equipment in full in accordance with the terms of the Contract.

2.8 At any time before title has passed to the Customer pursuant to a sale to the Customer BigChange Cyprus shall have the right, without prejudice to any other rights, to recover or re-sell the System or any part of the same (including the Equipment) and may enter upon the Customer's premises, or work upon the Customer's vehicles, by its servants or agents, for that purpose.

3. Payments to BigChange Cyprus and Finance Confirmation

3.1 In consideration of BigChange Cyprus 's performance of its obligations under the Contract, the Customer shall pay to BigChange Cyprus the amounts set out in the Order.

3.2 Invoices will be sent to the Customer each month or otherwise as per the associated Service Agreement notifying it of the payment date and value for each payment that will be collected by standing order, unless agreed otherwise.

3.3 If the Customer has placed the Order based on entering into a Service Agreement then upon receipt of Finance Confirmation, BigChange Cyprus will contact the Customer confirming the basis on which the Service Agreement is to be provided and the Customer shall immediately enter into a Service Agreement in a form presented by BigChange Cyprus .

3.4 If Finance Confirmation does not occur within 21 days from the date of the Order:

(i) **BigChange Cyprus** may extend such period for as long as it considers necessary for Finance Confirmation to be made; or

(ii) the Customer and BigChange Cyprus may agree to continue with the Contract as an outright purchase by the Customer, in which case the Contract will become unconditional upon payment in full by the Customer of the total value of the Equipment (plus VAT at the appropriate rate); or

3.5 If the Customer neglects or refuses to execute the Service Agreement offered under Clause 3.3 above or to obtain financing and provide the relevant Finance Confirmation necessary to permit the offer of a Service Agreement, or without reasonable cause, refuses or neglects to take delivery of the Equipment or to sign any Delivery Note or other document of like nature required by the Finance Company as a precondition to the implementing of the Service Agreement, the Customer shall be obliged forthwith to pay to BigChange Cyprus all Rentals that would otherwise be payable for the Contract Period (less the Deposit if already paid).

3.6 The Customer agrees that BigChange Cyprus may take payment for all additional services and items provided by BigChange Cyprus to the Customer (that are not paid for by the Rentals) by direct debit. BigChange Cyprus will send the Customer an invoice notifying it in advance of the additional sums being taken by standing order.

3.7 The Customer agrees to make all payments due under the Contract without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by BigChange Cyprus to the Customer.

3.8 All payments and fees due under the Contract are subject to the addition of VAT and any other applicable taxes, duties or levies at the then prevailing rate. Except as specified otherwise, the Customer shall pay to BigChange Cyprus all charges due immediately upon invoice. Any firm prices quoted are with errors and omissions excepted.

3.9 Notwithstanding any other provision in the Contract all payments payable to BigChange Cyprus under the Contract shall become due immediately upon termination of the Contract, howsoever arising.

3.10 Without prejudice to any other rights BigChange Cyprus may have, if the Customer fails to pay any sum due to BigChange Cyprus on the due date notwithstanding delivery by BigChange Cyprus of a written reminder to the Customer then BigChange Cyprus may:

3.10.1 Charge interest (both before and after any judgment) on the amount unpaid at the rate that Central Bank of Cyprus suggests and in compliance with the Late Payments in Commercial Transactions Law, Law No. 123(I)/2012 from the due date until the date of payment;

3.10.2 Charge an administration fee of €25 per month or part month, from the due date until the date of payment;

3.10.3 Charge the cost of time spent pursuing payment and any travelling expenses incurred;

3.10.4 Charge the amount of all legal costs incurred by BigChange Cyprus in connection with the recovery or attempted recovery of the whole or part of any monies due to it (on a full indemnity basis) whether or not proceedings are commenced, or costs can be awarded by the court;

3.10.5 suspend the provision of any Services provided under this Agreement until such time as all such payments due including all interest accrued and any costs incurred have been paid in full; and

3.10.6 Immediately and without notice, recover the System or any part of the same (including the Equipment) and the Customer authorises BigChange Cyprus to enter upon its premises and/or work upon its vehicles, by BigChange Cyprus servants and/or agents, for that purpose.

3.11 Charges for SMS Text messages, additional training and other chargeable Services which are not specified on the Order but may be requested or used by the Customer will be at the current rates specified in the Price List when the chargeable Services are used. This Price List may be updated from time to time.

4. Installation of the Equipment, Services, Software, Text Messaging, Brower System, Customer Support, System Replacement, Training, Job Card and Certificates, Consultancy Services and Customer Obligations

Installation of the Equipment

4.1 If no installation is specified on the Order then the Customer is responsible for fitting the Equipment on its vehicles in accordance with the instructions supplied with the Equipment.

4.2 If installation is specified on the Order and provided that the Terms relating to payment as detailed in the Order and Finance Confirmation have been complied with then BigChange Cyprus will install the Equipment on the number of vehicles shown at a mutually convenient time in accordance with the following terms:

4.2.1 the Customer must make the vehicles available for BigChange Cyprus to install the Equipment at the Fitting Address or such other location as BigChange Cyprus may agree; and

4.2.2 Installation of the Equipment may be by BigChange Cyprus employees or duly authorised sub- contractors; and

4.2.3 If the Equipment or the vehicles are not available at the Fitting Address at the agreed time and the Customer has provided BigChange Cyprus with less than 24 hours notice of its intention to cancel the installation then BigChange Cyprus reserves the right to make an additional charge for cancellation and installation on an alternative date.

4.3 BigChange Cyprus will remove the Equipment from vehicles (**defit**) and install it in replacement vehicles during the Contract Period by arrangement and subject to payment of BigChange Cyprus's standard charges at the time for defit and refit.

Services

4.4 The Service Payments will start when the System is delivered and will last for at least the Contract Period and will then continue thereafter until it is terminated. The Customer can terminate the Service Payments at the end of the Contract Period or at any time thereafter by giving BigChange Cyprus at least three months' notice in writing.

4.5 The Customer may only terminate the Service Payments before the end of the Contract Period by giving BigChange Cyprus three months' written notice of termination and paying to BigChange Cyprus all of the Service Payments which

would otherwise have fallen due but for early termination calculated to the end of the Contract Period.

4.6 BigChange Cyprus will provide Services for the System that the Customer has ordered to enable the System to:

- (i) record the information transmitted by the Equipment;
- (ii) Analyse the information and prepare reports in accordance with the System's capabilities.

4.7 The Services and the System are subject to the following limitations:

- (i) Information is sent from the Equipment to the System through the appropriate mobile phone network and will not work at places the mobile phone network is not available; and
- (ii) the System will not be available during scheduled maintenance outages which will be notified to the Customer from time to time nor during unscheduled outages which will occur from time to time.

4.8 BigChange Cyprus reserves the right to make such changes and improvements to the System as it consider necessary or appropriate from time to time.

Software

4.9 BigChange Cyprus will pre-install the Software on the BigChange Cyprus Tablet if these have been ordered. Otherwise the Customer can install the latest version of the Software from the relevant App Store.

4.10 BigChange Cyprus will provide the Customer with upgrades of the App as may be provided to BigChange Cyprus by the developers from time to time, during the Service Term and assist it in sourcing the necessary equipment and training the Customer operator on the changes if required.

4.11 If an upgrade requires a hardware change BigChange Cyprus will advise the Customer of the new requirements and assist it in sourcing the necessary equipment. The Customer will be responsible for the costs of any new hardware.

4.12 All intellectual property rights in the Software belong to BigChange Cyprus subject to a non-exclusive and non-transferable licence for the Customer to use it during the Service Term.

4.13 By entering this Agreement the Customer undertakes:

- (i) to use the Software exclusively in connection with the System;
- (ii) make no copies of the Software;
- (iii) not demonstrate or provide details of the Software to any third party without BigChange Cyprus's prior consent;

(iv) make no alteration to or modification of the whole or any part of the Software nor permit the Software or any part thereof to be combined with or become incorporated in any other programs, nor decompile or disassemble the object code version of the Software nor attempt to do any of such things, save only according to the extent that such cannot be precluded.

Text Messaging

4.14 The System enables the sending of text messages. The System will automatically send the text messages that the Customer sets up notifying it about those steps the Customer requests BigChange Cyprus to send it or its Customers text messages about.

4.15 BigChange Cyprus will charge the Customer for text messages at BigChange Cyprus's standard rate as applicable from time to time.

Browser System

4.16 The Browser System can be accessed to enable the Customer to access the information stored on the system from the Customer's own network via the World Wide Web.

4.17 The Browser System can only be used through a web browser with access to the World Wide Web using the latest versions of Google Chrome, Microsoft Edge, Apple Safari or Mozilla Firefox.

4.18 The Browser System will be automatically updated during the Service Term free of charge.

4.19 If an upgrade requires a hardware change BigChange Cyprus will advise the Customer of the new requirements and assist in sourcing the necessary equipment. The Customer will be responsible for the costs of any new hardware although this will normally be available from BigChange Cyprus at cost.

4.20 The Customer will only be able to use the Browser System during the Service Term.

4.21 It is a condition of using the Browser System that:

- (i) the Customer acknowledges that copyright in the screen, the reports and other information available through the Browser System belongs to BigChange Cyprus ; and
- (ii) the Customer will not copy or incorporate into any other work any of the material available through the Browser System although it may print or download extracts from the material for its internal use.

Customer Support

4.22 BigChange Cyprus will provide a helpdesk for answering any queries on use of the System.

4.23 The helpdesk will be available between 08.00 and 17.00 hours on any Business Day. Emergency backup, providing a limited range of assistance only, will be available outside these hours.

4.6.24 If a problem with the Equipment cannot be solved over the telephone BigChange Cyprus will arrange a visit to the Customer premises. Visits will be arranged as quickly as possible.

4.25 BigChange Cyprus will not charge for support visits if the visit is required by a defect in the System or Equipment during the Warranty Period.

4.26 In all other cases, the Customer will be liable for the cost of the visit at BigChange Cyprus's standard rate at the time. This includes:

- (i) tampering with the System;
- (ii) improper use of the System;
- (iii) unauthorised additions to the System;
- (iv) non-availability of the System, the Software, information, facilities or services reasonably required by us during the visit;
- (v) any errors in Customer installation of the System.
- (vi) interference with the System by a third party

4.27 To enable BigChange Cyprus to provide the Customer Support the Customer must:

- (i) make available to BigChange Cyprus, free of charge, access to the System, the Software and all information, facilities and services reasonably required by it for the performance of its obligations under this Agreement;
- (ii) notify BigChange Cyprus immediately on becoming aware of a fault in the Software or the System;
- (iv) make no alteration or modification of the whole or any part of the Software nor permit the Software or any part of the Software to be combined with or become incorporated in any other programs, nor decompile or disassemble the object code version of the Software nor attempt to do any of such things;
- (v) ensure that all Customer staff who use the System are competent and properly trained in respect of its use; and
- (vii) comply with the user requirements notified to the Customer from time to time.

System Replacement

4.28 While the System Warranty is in force BigChange Cyprus will replace any defective part of the System as soon as possible after it is notified that the System is not working. This Agreement will apply to the replacement System or part thereof in place of the original.

4.29 BigChange Cyprus will not charge for the replacement System nor for installing on the Customer's vehicle if the replacement is required because of a defect in the System.

4.30 In all other cases BigChange Cyprus will replace the defective part of the System but the Customer will be liable for the cost of the System and of its installation. This includes:

- (i) interference with the System by a third party;
- (ii) tampering with the System;
- (iii) improper use of the System;
- (iv) accidental damage to the System;
- (v) incorrect installation by anyone apart from our authorised installers; and
- (vi) any Equipment outside of the Equipment Warranty Period detailed in the Order.

4.31 Following termination of the Contract, **BigChange Cyprus** will not be obliged to provide replacement parts for the System.

Training

4.32 BigChange Cyprus will provide training to the Customer as agreed in the Order. If no further training has been agreed then Training will be web based and provided by BigChange Cyprus's Customer support team.

4.33 BigChange Cyprus will provide further training from time to time if so required for existing or new personnel subject to payment of its standard charges for training at the time.

Job Cards and Certificates

4.34 The Customer confirms that it has the right to reproduce any Job Cards and Certificates that it provides to BigChange Cyprus for use and/or replication within the System.

4.35 Should BigChange Cyprus provide the Customer with any industry standard job cards and/or certificates the Customer is solely responsible to ensure that they have the right to use such Job Cards and Certificates and holds all regulatory permissions necessary to do so.

Consultancy Services

4.36 BigChange Cyprus will provide the services agreed between the two parties at such rates and at such times as agreed on the Order, with reasonable skill and care in accordance with the professional standard expected.

4.37 In relation to all work undertaken for the Customer it is the responsibility of the Customers staff to provide BigChange Cyprus with complete, accurate and timely

information where requested and to carry out any other obligations ascribed to the Customer. BigChange Cyprus will not be responsible for any consequences that may arise from any delay or failure by the Customer to do so and these may also result in additional fees for which invoices may be raised.

4.38 BigChange Cyprus shall use its reasonable endeavours to ensure that the Consultant(s) is (are) available at all times on reasonable notice to provide such additional assistance or support (in addition to the number of days' Consultancy Services as set out in the Order Form) as the Customer may require, subject to the Customer's payment of such additional charges as the Supplier may propose, such charges to be based upon the Price List then in force.

4.39 BigChange Cyprus acknowledges the statutory responsibility to co-operate with the Customers health and safety requirements, provided notice of these is given. Whilst on Customer premises any representative of BigChange Cyprus shall be afforded by the Customer the same protection for health and safety purposes as is due to the Customers employees.

Customer Obligations

4.40 The Customer shall:

- 4.40.1 ensure that the terms of the Order are complete and accurate;
- 4.40.2 provide BigChange Cyprus with:

- (a) all necessary co-operation in relation to any applicable Contract; and
- (b) all necessary access to such information as may be required by BigChange Cyprus in order to provide the Services;

4.40.3 comply with all applicable laws and regulations with respect to its activities under any applicable Contract;

4.40.4 carry out all other Customer responsibilities set out in these Terms of Trade in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, BigChange Cyprus may adjust any agreed timetable or delivery schedule as reasonably necessary;

4.40.5 ensure that its employees, agents and authorised independent contractors use the Services and the Documentation in accordance with the terms of these Terms of Trade and shall be responsible for any such person's breach of these Terms of Trade;

4.40.6 obtain and shall maintain all necessary licences, consents, and permissions necessary for BigChange Cyprus, its contractors and agents to perform their obligations under these Terms of Trade, including without limitation the Services;

4.40.7 ensure that its network and systems comply with the relevant specifications provided by BigChange Cyprus from time to time; and

4.40.8 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to BigChange Cyprus's data centres, and all problems, Terms of Trade, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

4.41 The Customer undertakes that:

4.41.1 it will not allow or suffer any individual to make use of the Services and/or documentation who is not an employee, agent or independent contractor of the Customer authorised to make use of the Services and/or Documentation;

4.41.2 it shall permit BigChange Cyprus to audit the Customer's use of the Services;

4.41.3 if any of the audits referred to in clause 4.41.2 reveal that the Customer has more active licenses than specified on the Order, then without prejudice to BigChange Cyprus's other rights, BigChange Cyprus will be entitled to impose such additional charges on the Customer as it sees fit, at all times acting reasonably.

4.42 The Customer shall not access, store, distribute or transmit any viruses, or any material during the course of its use of the Services that:

- 4.42.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 4.42.2 facilitates illegal activity;
 - 4.42.3 depicts sexually explicit images;
 - 4.42.4 promotes unlawful violence;
 - 4.42.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 4.42.6 in a manner that is otherwise illegal or causes damage or injury to any person or property;
- and BigChange Cyprus reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

4.43 The Customer shall not:

4.43.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

- (a) and except to the extent expressly permitted under these Terms of Trade, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

(b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

4.43.2 access all or any part of the Services and/or Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

4.43.3 use the Services and/or Documentation to provide or resell similar services to third parties; or

4.43.4 subject to clause 12, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party, or

4.43.5 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 4.

4.44 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify BigChange Cyprus.

5. Warranty

5.1 BigChange Cyprus warrants that the Equipment will be of satisfactory quality and fit for its purpose for the duration of the Warranty Period specified in Clause 5.3 below but for no longer. Any defects arising after the Warranty Period has expired will be the responsibility of the Customer. BigChange Cyprus further warrants that the remainder of the System (excluding the Equipment) and the Software shall be of satisfactory quality and fit for its purpose throughout the Contract Period.

5.2 Except as expressly provided in the Contract, all warranties, Terms of Trade and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

5.3 Except as specified otherwise in the Contract, if the Equipment is or becomes of unsatisfactory quality during the Contract Period (as appropriate) BigChange Cyprus will (at its option) repair or replace the Equipment free of charge subject to the terms of the Contract (**Warranty Period**). Such Warranty Period may only be extended with the written agreement of BigChange Cyprus and upon payment of an appropriate extension charge. For the avoidance of doubt, this obligation shall not apply to any Equipment that is of satisfactory quality on delivery in the event that the defect(s) or non-performance is caused by an act or omission of the Customer. The aforementioned liability of BigChange Cyprus will be the Customer's sole remedy in respect of the supply of defective Equipment and will be in full and final settlement of and represents the entire liability of BigChange Cyprus for the Equipment arising under or in connection with this Agreement and, accordingly, BigChange Cyprus shall not be liable to the Customer in connection with the Equipment for any other losses, costs, claims, damages, liabilities or expenses arising to the Customer either direct or indirect (and including without limitation direct loss or profits and replacement and renewal costs) whether in contract, tort or otherwise however arising all of which are fully excluded. BigChange Cyprus reserves the right from time to time to modify the design, operation or performance of the System.

5.4 Where BigChange Cyprus repairs or replaces the System or part thereof where there is no defect in the System, where the defect has arisen from abuse or damage of the Equipment by the Customer and/or where it is otherwise not obliged to under the Contract the Customer will be liable for the cost of the repair or replacement and its installation at BigChange Cyprus's standard rate at the time plus return carriage and packaging. Where, upon investigation into an allegedly defective item of Equipment, no defect at all is found BigChange Cyprus may charge the Customer the fee of €25 per item of Equipment for its costs in carrying out an investigation plus return carriage and packaging.

5.5 The Customer warrants that it will not make any alteration to or modification of any software comprising part of the System nor allow any such software to be combined with or become incorporated in any other programs, nor decompile or disassemble such software nor attempt to do any such things save only to the extent that such cannot be precluded.

6. Liability

6.1 Without prejudice to Clauses 6.2 and 6.3 below, the liability of BigChange Cyprus whether in contract, tort (including negligence), and misrepresentation or otherwise for any loss or damage suffered by the Customer arising out of or in relation to the Contract shall be limited to the refund of the total sum paid by the Customer under the Contract (**Liability Amount**)

6.2 BigChange Cyprus shall not be liable for any loss or damage arising from the Equipment, its installation or the System having been tampered with, modified, repaired, installed by a third party or transferred to another vehicle (except by persons expressly authorised by BigChange Cyprus) or where it has otherwise been the subject of misuse or accident.

6.3 BigChange Cyprus shall not be liable for a breach of Clause 6.1, if such breach arises from the Customer's failure to follow BigChange Cyprus's oral or written instructions as to the storage, use or maintenance of the Equipment, fair wear and tear, or use in an environment or for a purpose for which the Equipment was not designed or intended by BigChange Cyprus.

6.4 BigChange Cyprus shall not in any circumstances be liable whether in contract, tort (including negligence) or otherwise for any loss of profits, business or

revenues, loss of contracts, loss of business opportunity, loss of anticipated saving, loss of goodwill or damage to reputation or for any special, indirect or consequential loss, in any case whether suffered by the Customer or any other person as a result of BigChange Cyprus's breach of the Contract and the parties agree that the categories of loss as referred to at this Clause 6.4 shall be distinct and severable.

6.6 Subject to Clause 6.7, BigChange Cyprus shall have no liability in respect of the Customer's inability to use or errors in the functioning of the Equipment which are attributable to operator error; provision of incomplete and/or incorrect information by the Customer (including its authorised users of the Equipment); power failures; malicious interference; any downtime or outages from any subcontractor or other lack of coverage of the mobile telecommunications network used by the Equipment.

6.7 Any key performance indicators BigChange Cyprus provides are for guidance purposes only and unless otherwise agreed in writing failure to comply with a key performance indicator shall not be a breach of this Agreement.

6.8 As BigChange Cyprus cannot know the effects of any failure in the provision of the Services on the Customer's business, the Customer assures BigChange Cyprus that it will put in place the Customer's own business continuity measures. Relying on that assurance BigChange Cyprus have negotiated the Liability Amount and the Customer accepts the limits as set out in this Clause 6.

6.9 Nothing in the Contract shall affect the statutory rights of a consumer or limit BigChange Cyprus's liability for personal injury or death resulting from its negligence or fraudulent misrepresentation.

6.10 The Customer indemnifies BigChange Cyprus against any loss or damage suffered by BigChange Cyprus as a result of a claim by any third party arising out of or in connection with Customer's sale of goods or services to that third party.

6.11 Place the cost of data processing audits on the customer:

The Customer shall indemnify and keep indemnified BigChange 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 supervisory authority) arising out of or in connection with any breach by the Customer of its obligations under this agreement.

7. Finance Company – Customer Acknowledgment and Liability (?)

7.1 If the Order is placed on the basis of the Customer entering into a Service Agreement with a third party Finance Company, the Customer acknowledges that the Finance Company will rely upon the following facts when deciding to provide finance;

(i) that the Finance Company has not been party to any negotiations between BigChange Cyprus and the Customer prior to entering into the Service Agreement; and

(ii) that the Customer has selected the System and has satisfied itself that it is fit for the Customer's purpose and will rely upon the express warranty in the Contract from BigChange Cyprus to ensure that the System is of satisfactory quality as its sole remedy if not;

(iii) the Customer is relying solely upon BigChange Cyprus to provide the Services; and

(iv) that the Customer will pay all Rentals due to the Finance Company on the dates due under the Service Agreement without any deduction, withholding or set off for any reason and, (without prejudice to the generality of the foregoing), in the event that the System fails to perform and/or that BigChange Cyprus fails to provide the Services to any extent or at all.

7.2 The benefit of the acknowledgment and warranties given by the Customer in Clause 7.1 are intended for the Finance Company and may be enforced by it as a third party to the Contract.

8. Data Protection

8.1 For the purpose of this section, "controller", "processor", "data subject", "processing", "personal data breach", "supervisory authority", and "appropriate technical and organisational measures" will be interpreted in accordance with the Data Protection Legislation.

8.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

8.3 The parties acknowledge that the Customer is the data controller and BigChange Cyprus is the data processor of any Personal Data that is processed by or on behalf of the Customer in the course of performing its obligations under this agreement.

8.4 In using BigChange Cyprus Services, the Customer may pass to BigChange Cyprus Personal Data relating to its prospects, customers, employees and other persons with whom the Customer has interests. This Contract and the passing of Personal Data to BigChange Cyprus by use of BigChange Cyprus services constitute processing instructions for which the Customer guarantees to BigChange

Cyprus that it has a legal basis in accordance with the current regulations relating to Personal Data. BigChange Cyprus maintains a register of the categories of Personal Data that BigChange Cyprus anticipate may be managed by the Customer using the BigChange Cyprus Services. The Personal Data is collected by the Customer in order to manage its mobile workforce business, increase its productivity, manage risk and compliance, and develop its business or organisation activities.

8.5 Without prejudice to the generality of clause 8.2 and 8.3, the Customer will ensure that:

8.5.1 For all processing of Personal Data based upon consent, it has obtained and maintains the consent of the person concerned for data collection, use and transmission to BigChange Cyprus as a sub-processors and to subsequent sub-processors;

8.5.2 It has all necessary appropriate rights and legal bases, including any consents and notices (where applicable) in place to enable lawful sharing of the Personal Data to BigChange Cyprus, BigChange Group Limited, their subsidiaries and their sub-processors for the duration and purposes of the Contract.

8.6 Without prejudice to the generality of clause 8.2 and 8.3, BigChange Cyprus shall, in relation to any Personal Data processed in connection with the performance by BigChange Cyprus of its obligations under the Contract:

8.6.1 ensure that the Customer or BigChange Cyprus has provided appropriate safeguards in relation to the transfer, in accordance with Data Protection Law and specifically the GDPR Chapter V and the relevant provisions of the Cyprus data protection legislation ;

8.6.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

8.6.3 ensure that any staff or personnel authorised to process the Customer Personal Data are subject to a binding duty of confidentiality in respect of such data; and

8.6.4 not transfer any Personal Data outside of the European Economic Area and United Kingdom unless the prior written consent of the Customer has been obtained or the following Terms of Trade are fulfilled:

8.6.4.1 the Customer or BigChange Cyprus has provided appropriate safeguards in relation to the transfer; in accordance with Data Protection Law and specifically the GDPR Chapter V and the relevant provisions of the Cyprus data protection legislation

8.6.4.2 the data subject has enforceable rights and effective legal remedies;

8.6.4.3 BigChange Cyprus complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

8.6.4.4 BigChange Cyprus complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

8.6.5 assist the Customer, at the Customer's cost, in complying with its obligations under the Data Protection Legislation relating to:

8.6.5.1 responding to requests from a Data Subject exercising their data subject rights;

8.6.5.2 complying with its own data processing security obligations;

8.6.5.3 Personal Data breach;

8.6.5.4 data protection impact assessments; and

8.6.5.5 consultations with the applicable supervisory authority following a privacy impact assessment;

8.6.6 notify the Customer without undue delay on becoming aware of a Personal

Data breach of the Customer's Personal Data, with further information about the breach provided in phases as information becomes available and provide full and prompt information and assistance to the Customer and any applicable law enforcement authority (including any applicable supervisory authority) in relation to such breach;

8.6.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer within 12 months following termination of the Contract unless required by Applicable Law to store the Personal Data;

8.6.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 8 and shall, with 28 days' notice, make available to the Customer or grant to the Customer and its auditors (subject to a maximum of one audit request in any 12 month period), and any applicable law enforcement authority (including any applicable supervisory authority), a right of access to, and to take copies of, any information or records kept by BigChange pursuant to this clause 8; and

8.6.9 notify the Customer immediately if, in BigChange Cyprus' opinion, an instruction for the processing of the Customer Personal Data given by the Customer breaches any provision of the Data Protection Legislation

8.7. The Customer authorises BigChange Cyprus, BigChange Group and BigChange Limited appointing third parties as sub-processor of Personal Data under the Contract. BigChange Cyprus confirms that it has entered or (as the case may be) will enter with the sub-processors into a written agreement. As between the Customer and BigChange Cyprus, BigChange Cyprus shall remain fully liable for all acts or omissions of any third-party sub-processor appointed by it pursuant to this clause 8 with regard to any failures of the sub-processor to fulfil its data protection obligations. Upon written request from the Customer or the Customers data subject BigChange Cyprus will make available a list of sub-processor categories.

8.8 BigChange Cyprus will ensure that Data Subjects may exercise their rights under the Data Protection Law by contacting in the case of non-EEA citizens: info@bigchange.com; and in the case of EEA citizens: RGDP@bigchange.com.

8.9 BigChange will notify the Customer without undue delay in writing if it receives from any data subject whose personal data forms part of the Customer Personal Data, or any applicable law enforcement authority (including any applicable supervisory authority):

(a) any communication seeking to exercise rights conferred on the data subject by the Data Protection Legislation;

(b) any complaint or any claim for compensation arising from or relating to the processing of the Customer Personal Data; or

(c) any communication from any applicable law enforcement authority (including any applicable supervisory authority).

8.10 The table below sets out the subject matter and the duration of the processing, the nature and purpose of the processing under this Contract, the types of Customer Personal Data that BigChange will process and the categories of Data Subject whose Personal Data is processed:

Required Details	Description
Subject matter	The provision of the Services in accordance with this Contract
Duration of processing	The term of this agreement plus the period following the expiry or termination of this Contract until the destruction or return of all Customer Personal Data in accordance with the requirements of this Contract.

Nature and purpose of the processing	BigChange will process the Customer Personal Data for the purpose of providing the Services in accordance with the terms of this Contract.
Data subject	Prospects, customers, employees and other persons with whom the Customer has interests
Categories of data	At the Customer's discretion: - name, and other identity data; - address and contact details; - timesheets and expenses; - skills and qualifications; - personal or business vehicle details; - locations and journeys collected via vehicle tracking and other mobile devices; - driving events and behavior scores calculated using business customer configured algorithms; - signatures; - business photographs/videos which may include images of people or identity documents; - voice recordings; - other data as determined by the Customer
Special categories of data (if applicable)	At the Customer's discretion: - other data as determined by the Customer

9. Default and Termination

9.1 BigChange Cyprus can terminate the servicing of the Equipment and/or this Terms of Trade by giving the Customer written notice if the Customer;

(i) fails to pay any payment or any other sum due under the Contract or any other agreement with BigChange Cyprus on time; or
(ii) has made any untrue statements or given any false information to BigChange Cyprus in connection with the Contract; or
(iii) does not abide by the terms of the Contract or any other agreement with BigChange Cyprus ; or
(iv) the System is taken to settle a debt or Judgment or any other event happens which might prejudice BigChange Cyprus 's interest in the System; or
(v) breaches the terms of any software licence provided in connection with the System; or
(vi) is an individual and has a petition presented against it for bankruptcy or proposes any scheme of arrangement or composition with it's creditors; or
(vii) is a company and is unable to pay its debts as they fall due or it has a receiver appointed or a petition is presented (or resolution passed) for the appointment of an administrator or administrative receiver or for it's winding up or proposes any scheme of arrangement or composition with it's creditors.

9.2 If BigChange Cyprus gives the Customer notice under Clause 9.1 and the Contract is terminated before the end of the Service Term the Customer must recompense BigChange Cyprus for all loss and damage which it has suffered by reason of such early termination. The Customer will in any event pay to BigChange Cyprus on demand any costs and expenses (including legal costs) which BigChange Cyprus incur in enforcing the terms of the Contract following breach by the Customer and on an indemnity basis.

9.3 Notwithstanding any other provision in the Contract all payments payable to BigChange Cyprus under the Contract shall become due immediately upon termination.

9.4 The Termination of this agreement due to Default shall not affect any Service Agreements that are in place between the Customer and a third party leasing provider.

10. Force Majeure

10.1 BigChange Cyprus shall not be liable for any delay in performing any of its obligations or any failure of the System to perform any of its functions under the Contract caused by force majeure including, but not limited to:

10.1.1 emergency, acts or omissions of Government, highway, telecommunications operators, regulatory or other competent authority, unofficial or otherwise unlawful industrial action of any kind, riot, civil unrest, environmental Terms of Trade, severe inclement weather, inability to obtain supplies of power, fuel or transport;

10.1.2 breakdown or malfunctioning of the world wide web or other communication links between the Equipment and BigChange Cyprus and/or between BigChange Cyprus and the Customer's computer network;

10.1.3 viruses introduced to the System by the Customer's computer network or otherwise;

10.1.4 external hacking of information within the System; and/or

10.1.5 any other cause beyond BigChange Cyprus 's reasonable control, including, without limitation, acts of God, natural disasters, strikes, riots, war situations, earthquakes, floods, fires and explosions

11. Notices and Waiver

11.1 Any notices given under the Contract shall be in writing and shall be sent to the address given in the Order or subsequently notified to the other party for such purpose and shall be deemed to have been duly given or made: (i) if sent by first class post or recorded delivery two clear Business Days after posting; and (ii) if sent by e-mail, one Business Day after sending.

11.2 Failure or delay by either party to exercise any right in the Contract shall not be a waiver of any such right nor operate so as to bar the subsequent exercise of it or of any other right and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or of any other right or remedy.

12. Assignment

12.1 The Customer may not assign the benefits or it's obligations under the Contract without BigChange Cyprus 's prior written consent.

12.2 BigChange Cyprus or it's successors and assigns reserve the right to assign the benefits or obligations under the Contract to another group company or suitable supplier.

13. Confidentiality

13.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party.

13.2 Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

14. Entire Agreement

14.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

14.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of 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.

14.3 . Nothing in this clause shall limit or exclude any liability for fraud.

15. Third Party Rights

15.1 Unless it expressly states otherwise, the Contract does not give rise to any rights.

15.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

16. General

16.1 If any provision of the Contract shall be held illegal or unenforceable such provision shall be severed and the remainder of the Contract shall remain in full force and effect unless the business purpose of the Contract is frustrated thereby.