

STONERIDGE ELECTRONICS LIMITED

OPTAC3 STANDARD TERMS AND CONDITIONS

The following are the terms and conditions ("**Terms and Conditions**") that govern both your use of this Website and the provision of Services to you ("**the Customer**") by Stoneridge Electronics Limited, company number SC139213, having its registered office c/o Shepherd & Wedderburn WS, 5th Floor, 1 Exchange Crescent, Conference Square, Edinburgh, EH3 8UL ("**Stoneridge**").

In accessing the Website and by using the Services, the Customer agrees to be bound by the Terms and Conditions. If the Customer does not agree to the Terms and Conditions, it should not use the Service. Any of the Terms and Conditions may be modified by Stoneridge without notification to the Customer. Stoneridge recommends that the Customer periodically reviews the Website for any changes. Stoneridge will inform the Customer of any changes where required to do so by law or where such changes are material to terms of this Agreement.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In the Terms and Conditions the following words and expressions will have the following meaning unless the context otherwise requires:
- 1.1.1 "**Agreement**" means the Order Form as completed by the Customer and accepted by Stoneridge together with these Terms and Conditions;
 - 1.1.2 "**Analogue Download Block**" means a block of Downloads (the number of Downloads as set out in the Order Form) for use with an analogue tachograph;
 - 1.1.3 "**Commencement Date**" means the date on which Stoneridge begins to provide the Services;
 - 1.1.4 "**Data**" means any data, material and/or information owned by the Customer;
 - 1.1.5 "**Digital Download Block**" means a block of Downloads (the number of Downloads as set out in the Order Form) for use with a digital tachograph;
 - 1.1.6 "**Downloads**" means the number of download units which the Customer purchases from Stoneridge, which dictate the amount of usage which the Customer can make of the Services;
 - 1.1.7 "**External Service Provider**" means a separate legal entity from Stoneridge that provides services
 - 1.1.8 "**Fax Sales**" means sales of the Services to the Customer made via the fax sales process as set out in Clauses 3.4 and 3.6;
 - 1.1.9 "**Fees**" means the sums to be paid by the Customer to Stoneridge in respect of the Services;
 - 1.1.10 "**Flat Rate**" means a pricing structure based on the number of unique drivers processed in the Customers Online Account per calendar week;
 - 1.1.11 "**Force Majeure**" means any event outside the reasonable control of either party affecting its ability to perform any of its obligations (other than payment) under the Agreement, including Act of God, fire, flood, lightning, war, revolution, act or terrorism, strikes, lock-outs or other industrial action, whether of the affected party's own employees or others, and including unavailability of any infrastructure being provided by a third party, such as a telecoms provider;
 - 1.1.12 "**IPR**" means rights, including but not limited to, rights in or to copyright, design rights, database rights, patents, trade marks, brand names, trade names, technical information or know-how or confidential information and any other rights in respect of any other industrial or intellectual property, whether registrable or not and wherever existing in the world and including, without limitation, all rights to apply for any of the foregoing rights;
 - 1.1.13 "**Licensed User**" means an employee of the Customer permitted by these Terms and Conditions to use the Services;
 - 1.1.14 "**Mixed Download Block**" means a block of Downloads (the number of Downloads as set out in the Order Form) which provides a number of Downloads for use with a digital tachograph and number of Downloads for use with an analogue tachograph;
 - 1.1.15 "**Online Account**" means the online account created by Stoneridge for a Customer or Trial Customer to access the Services via the Website;
 - 1.1.16 "**Online Account Expiry Date**" means the date when the Customer has utilised all of its available Downloads or the date on which the Customer has made no uploads for a period in excess of 13 months;

- 1.1.17 "**Online Account Fee**" means the sums to be paid by the Customer to Stoneridge in respect of setting up an Online Account;
- 1.1.18 "**OPTAC3 Plus**" means an additional service that customers can purchase where they automatically receive a number of reports from Stoneridge on a monthly basis.
- 1.1.19 "**Order Form**" means the on-line order form to be completed by the Customer and accepted by Stoneridge, detailing the number of Downloads to be purchased by the Customer and the Services which Stoneridge agrees to supply to the Customer;
- 1.1.20 "**Password**" means the password to be used in conjunction with the User Name and supplied by Stoneridge to the Customer to access the Services via the Website;
- 1.1.21 "**Personal Data**" means any Data that relates to or can identify a living individual as defined under the Data Protection Act 1998;
- 1.1.22 "**Services**" means the services provided pursuant to these Terms and Conditions where Stoneridge will provide the Customer or the Trial Customer with the ability to upload analogue and/or digital data obtained from a tachograph or driver card to a web-based server that will in return provide the Customer or Trial Customer with the ability to view and produce reports on the uploaded data;
- 1.1.23 "**Stoneridge System**" means the hardware, software, cabling, equipment and communication links including the Website which are owned, rented or leased by Stoneridge and which Stoneridge, or a third party supplier on behalf of Stoneridge, manages, maintains and supports in order to provide the Services;
- 1.1.24 "**Telephone Sales**" means sales of the Services to the Customer made via Stoneridge's telephone sales facility as set out in Clauses 3.4 and 3.6;
- 1.1.25 "**Terms of Use**" means the Terms of Use found at <http://www.rackspace.co.uk/>;
- 1.1.26 "**Trial Customer**" means any Customer who orders the Services on a trial basis and for the Trial Period;
- 1.1.27 "**Trial Period**" means any 30 day period or such alternative period as is set out in the Order Form where a Trial Customer is able to use the Services;
- 1.1.28 "**Use**" means utilisation of the Services by copying, transmitting or loading the same into the temporary memory only of the Customer's computer systems for the purposes of accessing and using the Stoneridge System in accordance with these Terms and Conditions;
- 1.1.29 "**User Name**" means the user name to be used in conjunction with the Password and supplied by Stoneridge to the Customer to access the Services via the Website;
- 1.1.30 "**Website**" means the website maintained by Stoneridge for the provision of the Services;
- and
- 1.1.31 "**Working Days**" means Stoneridge's normal working days excluding weekends and public holidays in Scotland.
- 1.2 Words denoting the singular will include the plural and *vice versa*, and references to persons will include an individual, company, corporation, firm or partnership. References to any statute, statutory provision, rule or regulation will include references to the same as from time to time amended, extended, re-enacted or consolidated and include all related subordinate legislation.
- 1.3 Clause headings are used in the Terms and Conditions for reference only and will not affect interpretation. References to Clauses in these Terms and Conditions are to the clauses of the Terms and Conditions, unless otherwise specified.
- 1.4 If there is any inconsistency between the Terms and Conditions and the terms in an Order Form the terms of the Terms and Conditions will take precedence unless otherwise expressly specified or agreed.
2. **SCOPE AND DURATION**
- 2.1 The Agreement will commence on the Commencement Date and will continue in force until the Online Account Expiry Date or until terminated in accordance with the terms of this Agreement.

2.2 For a period of 24 months from the Online Account Expiry Date, the Customer shall be able to view and analyse the Data which it has uploaded to the Website prior to the date on which the Customer has utilised its Downloads or the date on which the Customer has made no uploads for a period in excess of 13 months. Following the Online Account Expiry Date, the Customer will not be able to upload any further Data to the Website. After the expiry of such 24 month period, the Customer acknowledges and confirms that Stoneridge can delete any Data which the Customer has uploaded to the Website to date.

2.3 Stoneridge will not supply any goods, Services or support that is to be exported, re-exported, sold, shipped, transshipped directly or indirectly to Cuba, Iran, North Korea, Sudan and Syria or the Governments of Cuba, Iran, North Korea, Sudan and Syria. This policy also relates to goods or technology that is to be incorporated into goods that are to be supplied directly or indirectly to the above states or their governments.

3. **ORDER PROCESS**

3.1 The use of OPTAC3 Web is conditional on a Customer setting up an Online Account. To set up an Online Account, the Customer shall pay the Online Account Fee. Customers may set up an Online Account either through the Website (www.optac.info), by the Telephone Sales process or the Fax Sales process.

3.2 The provisions of this Clause shall apply equally to Trial Customers and references to "Customer" shall be construed accordingly.

3.3 **Flat Rate Online Account and Initial Purchase**

3.3.1 The only pricing structure available to new customers is Flat Rate, whereby they complete the Online Account order process, specify Flat Rate pricing and submit a Direct Debit mandate.

3.3.2 The Customer receives an unlimited allocation of Analogue Blocks and Digital Blocks or combination thereof

3.3.3 After completing the Online Account order process and the Order Form and submitting the Direct Debit mandate, Stoneridge will send an email within 5 Working Days of the date of the order to the email address provided by the Customer during the order process acknowledging receipt of the Customer order. This does not mean that the order has been accepted.

3.3.4 All orders are made by the Customer subject to acceptance by Stoneridge, and Stoneridge will confirm such acceptance to Customer by sending an email to the address provided by the Customer during the order process confirming that Stoneridge agrees to provide the Online Account and the Services to the Customer (the "**Confirmation Email**"). The contract between the Customer and Stoneridge will only be formed when Stoneridge sends the Confirmation Email and only on the basis that the signed Direct Debit Mandate has been received by Stoneridge.

3.3.5 In the Confirmation Email Stoneridge will provide the Customer with a unique User Name and Password. The Customer will be required to use its User Name and Password to access the Website following the initial purchase process as set out in this Clause 3.7.

3.4 **Downloads – Online Sale Process**

3.4.1 Customers who signed up for OPTAC3 Web before the introduction of Flat Rate pricing can still purchase Download Blocks. To order additional Downloads the Customer should complete the Order Form on the Website and specify the number of Analogue Blocks, Digital Blocks, Mixed Download Blocks or combination thereof it wishes to purchase.

3.4.2 After completing the Order Form and submitting the Fees, Stoneridge will send an email within 5 Working Days of the date of the order to the email address provided by the Customer during the order process acknowledging receipt of the Customer order. This does not mean that the order has been accepted.

3.4.3 All orders are made by the Customer subject to acceptance by Stoneridge, and Stoneridge will confirm such acceptance to Customer by sending an email to the address provided by the Customer during the order process confirming that Stoneridge agrees to provide the Services to the Customer (the "**Confirmation Email**"). The contract between the Customer and Stoneridge will only be formed when Stoneridge sends the Confirmation Email.

3.5 **Downloads – Telephone and Fax Sales Process**

3.5.1 To order additional Downloads by telephone or fax the Customer may place an order specifying the number of Analogue Blocks, Digital Blocks, Mixed Download Blocks or combination thereof it wishes to purchase over the telephone or by sending a fax to Stoneridge.

- 3.5.2 Stoneridge will send an email to the Customer's email address given at the time of placing the order acknowledging receipt of the order and confirming the details of the order. This does not mean that the order has been accepted.
- 3.5.3 Should the Customer not agree with the details of the order as indicated in the email, it should call Stoneridge's telephone sales team or fax sales team to advise them of the correct details. This shall then be confirmed by Stoneridge to the Customer.
- 3.5.4 All orders are made by the Customer subject to acceptance by Stoneridge, and Stoneridge will confirm such acceptance within 5 Working Days from the date of Stoneridge receiving payment of the Fees to the Customer by sending an email (the "**Confirmation Email**") to the address provided by the Customer confirming that Stoneridge agrees to provide the Services to the Customer. The contract between Customer and Stoneridge will only be formed when Stoneridge sends the Confirmation Email.

3.6 **Trial Customers**

- 3.6.1 Trial Customers who accept a trial will be provided with an Online Account and the number of free Downloads provided with the Online Account as advertised by Stoneridge from time to time. Thereafter the Trial Customer may access the Website and use the Services for no Fee for the duration of the Trial Period.
- 3.6.2 Unless the Trial Customer purchases the Services within 30 Working Days following the expiry of the Trial period, the Trial Customer acknowledges and confirms that Stoneridge may delete any Data which the Trial Customer has uploaded to the Website during the Trial Period.
- 3.6.3 The Trial Customer's Online Account will automatically expire after the end of the Trial Period.
- 3.6.4 If the Trial Customer does not wish to purchase the Services, such Trial Customer will have the ability to export their Data from the Stoneridge System for a period of 30 Working Days following the expiration of the Trial Period.
- 3.6.5 Trial Customers choosing to purchase the Services following the Trial Period shall follow the order process for as set out at Clause 3.3 and acknowledge that they will be responsible for payment of the Online Account Fee in respect of their Online Account set up when they were Trial Customers.
- 3.6.6 The Customer will only be able to utilise one Trial Period within any 12 month period otherwise the Services will be charged to the Trial Customer by Stoneridge.

3.7 **External Service Providers (ESP)**

3.7.1 **Data Upload to OPTAC3 Web**

- 3.7.1.1 The additional service of the facility to upload files from an ESP is provided at no extra cost to users of OPTAC3 Web. An ESP may charge for this service; however these charges are out with Stoneridge's control.
- 3.7.1.2 The customer hereby acknowledges that OPTAC3 Web may receive file downloads from an ESP.
- 3.7.1.3 When the service is activated in OPTAC3 Web up to 31 days of historical digital downloads may automatically be imported from the ESP. Please note that charges may be incurred associated with the OPTAC3 Web download usage as per the customers payment plan.
- 3.7.1.4 Stoneridge is not responsible for the files received or downloaded from the ESP, nor for their accuracy, content or validity of the file's digital signature.
- 3.7.1.5 Stoneridge will use the files for the purpose of storage and for evaluating the content in accordance with the OPTAC3 End User Licence Agreement and any related services.

3.7.2 **Data Transfer to an External Service Provider**

- 3.7.2.1 The additional service of the facility to transfer data to an ESP is provided at no extra cost to users of OPTAC3 Web. An ESP may charge for this service; however these charges are out with Stoneridge's control.
- 3.7.2.2 The customer hereby acknowledges that the service allows for the provision of data between the customer's OPTAC3 Web account and the External Service Provider.

3.7.2.3 Stoneridge is not responsible for how the ESP uses the information received from OPTAC3 Web.

4. SERVICES

- 4.1 Stoneridge will provide the Customer with the Services and grants a non-exclusive, non-assignable licence to the Customer and any Licensed User, for the duration of the Agreement, to Use and access the Stoneridge System remotely, via the Internet through the use of a browser on a computer used by the Licensed Users and the Customer. The Customer shall not have any right to grant a sub-licence of the licence granted under this Clause 4.1.
- 4.2 The Customer will comply with, and will ensure that any Licensed User will at all times comply with the provisions of the Agreement and in particular:
- 4.2.1 will only access, use, download, modify, copy or reproduce, display or distribute content from the Stoneridge System for the purposes solely necessary to process and analyse the Data during the term of the Agreement;
- 4.2.2 will not use the Stoneridge System in order to post, transmit, distribute, store or destroy any Data:
- (a) in a manner which will infringe any IPR of, or any trade secret belonging to, any person; or
 - (b) which infringes the privacy of any other person; or
 - (c) which is defamatory, obscene, threatening, abusive of another person or otherwise inappropriate.
- 4.3 The Customer will, and will ensure that each Licensed User will, keep any User Name and Password given to him or her by Stoneridge for use in connection with the Services confidential and secure at all times and will not disclose or divulge any such Password to any other third party.
- 4.4 The Customer will not, and will ensure that each Licensed User will not, breach or attempt to breach the security of the Website, including, without limitation:
- 4.4.1 accessing, or attempting to access any Data not intended for the Customer (or any of its Licensed Users) or logging into a server or account to which the Customer (or any of its Licensed Users) is not authorised to access;
- 4.4.2 attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorisation; or
- 4.4.3 attempting to interfere with service to any other customer, host or network, including, without limitation, via means of submitting a virus to the Website, "overloading", "flooding", "spamming" or "mailbombing" or "crashing".
- 4.5 The Customer will have no right to modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works based on any element of the Stoneridge System, save as may be permitted by law.
- 4.6 The Customer is responsible for its activities and the activities of Licensed Users and, by accepting these Services from Stoneridge, is agreeing to ensure that both the Customer and its Licensed Users abide by the terms of this Agreement. If irresponsible or illegal activity takes place the Service may be subject to suspension, termination or other action as Stoneridge may deem appropriate without notice. Subsequent actions such as re-enabling of the service or formal cessation of the Service shall be done in consultation with the Customer.
- 4.7 Without prejudice to the other provisions of the Agreement, and on reasonable written notice to the Customer, Stoneridge reserves the right at its sole discretion to vary, enhance, modify, substitute or amend, at its own expense, any element of the Stoneridge System.
- 4.8 Stoneridge will use reasonable endeavours to ensure that the Stoneridge System is operating and available at all times to the Customer and Licensed Users. However due to updating, necessary maintenance down-time, reliance on third parties and conditions outside of Stoneridge's control, Stoneridge cannot guarantee uninterrupted, error-free, secure or timely availability of any part or all of the Stoneridge System.

In the event of scheduled maintenance being required Stoneridge shall not be liable for any costs, losses, expenses or damages resulting from or related to the unavailability of the Stoneridge System.

Stoneridge may suspend or withdraw any part of the Stoneridge System at any time and for any reason, without liability.

- 4.9 To the extent that certain information on the Website is obtained from, or prepared with reference to, data provided to Stoneridge by third parties, Stoneridge shall not be liable for any loss or damage arising as a result of such information being incorrect as a result of incorrect or incomplete data received from such third party.
- 4.10 Stoneridge cannot guarantee that any transmissions of information or Data to, from and via the Website or via email to or from Stoneridge will not be altered, intercepted or tampered with outside of the Stoneridge System and accepts no liability for loss or damage arising directly or indirectly as a result of such incident taking place.
- 4.11 The Customer is solely responsible for any breaches of security affecting servers resulting from negligence in security details and problems within the Customer owned content. If the Customer's server is involved in an attack on another server or system, Stoneridge may shut down such server and launch an investigation, once diagnosed, to determine the cause and/or source of the attack. In such event, the Customer is solely responsible for the cost to rectify any damage done to the Customer's server and any other requirement affected by the security breach. It is the Customer's responsibility to ensure only personnel authorised by Password are able to make changes – the Customer should ensure the Passwords are changed if there is a suspected breach or there are personnel changes.

5. **OPTAC3 PLUS**

- 5.1 Stoneridge undertakes to deliver the agreed number of reports to the email address supplied by the customer upon signing up for the OPTAC3 Plus service.
- 5.2 These reports are based on the data that the customer has uploaded to the OPTAC3 system.
- 5.3 In order to manage this data and create the reports for the customer Stoneridge will set up a new user within the customer's OPTAC3 account.
- 5.4 After signing up for the service the customer will be notified of the date window each month in which they will receive the reports.
- 5.5 The customer has two options for paying for the service:
- (a) The annual fee can be taken up front when ordering OPTAC3 Plus
 - (b) The annual fee can be split over the 12 month period and will be taken by monthly Direct Debit from the customer's account together with their OPTAC3 Flat Rate payment.
- 5.6 Stoneridge reserves the right to change the content and the delivery date of the reports and the customer will be informed in advance of any such changes.

6. **THE CUSTOMER'S OBLIGATIONS**

- 6.1 The Customer will:-
- 6.1.1 work in a co-operative and constructive manner with Stoneridge and such other third parties as Stoneridge may require (including, without limitation, any third party suppliers) to the extent necessary for the effective provision of the Services;
 - 6.1.2 if notified by Stoneridge of any potential delay by Stoneridge in the performance of its obligations under the Agreement which is likely to be attributable to the Customer, take reasonable steps to address any issues giving rise to such potential delay.
 - 6.1.3 notify Stoneridge of any changes in contact details, including but not limited to delivery address, billing address and e-mail, within 15 days of changes occurring, to allow a good level of service to be provided.
- 6.2 If Stoneridge is prevented from or delayed in carrying out its obligations under the Agreement by reason of any delay, act or omission of any party other than Stoneridge, its agents or sub-contractors then notwithstanding anything else contained in the Agreement, Stoneridge will not be liable for such delay or failure and will be entitled to a time extension for performing its obligations at least equal to the period of delay. Any additional work required to be performed by Stoneridge as a result of any such delay or failure will be paid for by the Customer. Any such delay lasting more than ten (10) Working Days will entitle Stoneridge to terminate any affected Service or all of the Agreement immediately upon written notice to the Customer.
- 6.3 The Customer should ensure that it and its Licensed Users comply with the Terms of Use.

7. **PAYMENT TERMS – Downloads**

- 7.1 Fees will be payable by the Customer to Stoneridge at the point of sale of the Downloads whether the Downloads are purchased on the Website, by Telephone Sales or by Fax Sales.
- 7.2 Stoneridge is entitled to vary the Fees at any time.

8. **PAYMENT TERMS – Flat Rate Online Account**

- 8.1 The Flat Rate Customer:
 - 8.1.1 must agree to the Direct Debit payment process and complete the mandate provided;
 - 8.1.2 will be invoiced on a monthly basis for the number of unique drivers processed in their Online Account per calendar week;
- 8.2 Each unique driver; analogue or digital is counted as one driver and will be charged accordingly once processed in the Online Account;
- 8.3 Digital Tachograph (Vehicle Unit) files and analogue charts are free to import into an Online Account;
- 8.4 Stoneridge will send to the Customer details of the Direct Debit instructions agreed when the Customer signed up for the Services;
- 8.5 The Fees will commence in the monthly payment run that follows the Online Account setup date;
- 8.6 If the Customer withdraws or amends their Direct Debit instruction, Stoneridge may either alter the Fees accordingly which the Customer shall be liable to pay or suspend the Service;
- 8.7 Stoneridge is entitled to vary the Fees at any time.

9. **DATA PROTECTION**

- 9.1 Stoneridge undertakes that it will:
 - 9.1.1 use the Personal Data solely for the purposes of the Agreement;
 - 9.1.2 act only on instructions from the Customer;
 - 9.1.3 ensure that appropriate technical and organisational measures are taken against unauthorised or unlawful processing of Personal Data and against accidental loss, or destruction of, or damage to such Personal Data; and
 - 9.1.4 make all reasonable endeavours to ensure that any sub-contractors used in the provision of the Services to the Customer shall comply with 8.1.1 to 8.1.3 of this Agreement.
- 9.2 The Customer warrants to Stoneridge that:
 - 9.2.1 it will collect the Personal Data and Data in accordance with the fair and lawful practices and in accordance with the Data Protection Act 1998;
 - 9.2.2 the instructions given by the Customer in respect of the Personal Data will at all times be in accordance with the relevant laws of the United Kingdom and/or applicable jurisdiction; and
 - 9.2.3 it is legally entitled to control the Personal Data.
- 9.4 Stoneridge will not disclose any Personal Data to a third party in any circumstances except at the specific written request of the Customer or where obliged to do so under any statutory requirement, in which case it shall use reasonable endeavours to advise the Customer in advance of such disclosure and in any event immediately thereafter.
- 9.5 The Customer will indemnify and keep Stoneridge indemnified from and against any fines, costs, claims, damages or expenses arising from a breach of the warranties contained in this Clause 8.

10. USE OF DATA BY STONERIDGE

Notwithstanding the obligations of Stoneridge under Clause 8.1, any Data supplied to Stoneridge may be processed and used by Stoneridge and other companies engaged by Stoneridge in the provision of the Services but only for Stoneridge's internal business purposes (including but not limited to the development and testing of elements of the Stoneridge System).

11. LIABILITY

11.1 Nothing contained in the Agreement will exclude or limit either party's liability for death or personal injury caused by any act, omission or the negligence of that party or its officers, employees and sub-contractors in the course of their engagement under the Agreement, or any other liability the exclusion of which is expressly prohibited by statute. Each party will indemnify the other and keep the other fully and effectively indemnified on demand in respect of any injury to or death of any person caused by the negligent act or omission or wilful misconduct of that party, its employees, agents or sub-contractors.

11.2 Stoneridge will not be liable to the Customer for:

11.2.1 any consequential, indirect or special losses, for any loss of profits, contracts, business, data, revenue or goodwill suffered or incurred by the Customer as a result of any breach of any warranty contained in the Agreement or of any of the provisions of the Agreement;

11.2.2 any loss or damage arising out of or in connection with any software, hardware, plant, machinery, media, cabling, telecoms equipment or other equipment not forming part of the Stoneridge System;

11.2.3 any loss or damage arising out of or in connection with any loss of service or disruption to availability of any element of the Stoneridge System for any reasons; and/or

11.2.4 any or all costs, liabilities losses, damages and expenses (including, without limitation, legal costs) which arise from or is consequent to any act, omission, default, negligence or breach of the provisions of the Agreement by the Customer and/or the Licensed User, its employees, agents, consultants and/or subcontractors.

11.3 The Customer acknowledges that it will be solely responsible for the maintenance and security of its Data, and Stoneridge will have no liability for any loss or corruption of any such software or Data, however caused, where such loss or corruption could have been avoided or corrected if the Customer had taken and retained in a secure place, appropriate backup copies.

11.4 Stoneridge is not liable if the Customer's Data does not conform to any applicable laws and regulations.

11.5 Subject to Clauses 10.1 to 10.3, the aggregate liability of Stoneridge to the Customer for any loss or damage howsoever arising in relation to the Agreement including (but not limited to) loss or damage arising out of breach of the Agreement, or breach of any term hereof whether express or implied, or breach of any common law or statutory duty (including but not limited to any duty in relation to tort) to take reasonable care or exercise reasonable skill will not exceed the total Fees paid under this Agreement.

12. IPR AND IPR INDEMNITY

12.1 The Customer acknowledges that all proprietary rights in the Stoneridge System, including but not limited to all IPR, will at all times and for all purposes vest and remain vested in Stoneridge, except that any IPR that has been licensed to Stoneridge by any third party will remain vested in that third party.

12.2 Subject to the other provisions of the Agreement, Stoneridge will indemnify and keep indemnified in full on demand the Customer from and against all costs, liabilities and expenses (including reasonable legal costs) directly relating to, resulting from or arising out of any claims (actual or threatened) that the IPR in the Stoneridge System, when used in accordance with the terms of the Agreement, infringes the IPR of any third party in the UK.

12.3 Subject to the other provisions of the Agreement, the Customer will indemnify and keep indemnified in full and on demand Stoneridge from and against all costs, liabilities and expenses (including, without limitation, legal costs) directly relating to, resulting from or arising out of:

12.3.1 any use (other than Use permitted in terms of the Agreement) which the Customer and/or any of its Licensed Users, employees, agents, consultants and/or subcontractors make of the Services and the Stoneridge System which infringes the IPR of Stoneridge or any third party who has licensed its IPR to Stoneridge; or

12.3.2 any breach by the Customer and/or any of its Licensed Users of the terms of the Agreement.

12.4 Where there is any claim or alleged claim against one party ("the Indemnifying Party") by the other party (the "Innocent Party") in respect of which Clauses 11.1 and 11.2 apply, the Indemnifying Party will only indemnify the Innocent Party provided that in respect of any such claim or alleged claim the Innocent Party will:

12.4.1 as soon as is reasonably practicable and in any event no later than ten (10) days after receipt of notification of the said claim, give to the Indemnifying Party written notice of the claim or alleged claim, and all details of the claim or alleged claim from time to time in the knowledge or possession of the Innocent Party;

12.4.2 not, without the prior written consent of the Indemnifying Party, admit liability or make any offer, promise, compromise, settlement, or communication with the third party in respect of the claim or alleged claim, such consent not to be unreasonably withheld or delayed;

12.4.3 use its reasonable endeavours to mitigate any loss arising out of such claim or alleged claim by any third party; and

12.4.4 render all reasonable assistance to the Indemnifying Party in connection with the defence of any such claim against the Innocent Party or, at the reasonable written request of the Indemnifying Party, surrender the conduct in the Indemnifying Party's name of the defence, settlement and/or counterclaim of the claim or alleged claim (provided that nothing in the Agreement will prohibit the Innocent Party from issuing any press release in connection with any adverse publicity resulting from any such claim (but provided that such statement will not contain any admission of liability and will be agreed with the Indemnifying Party prior to release).

13. **TERMINATION**

13.1 Either party may terminate the Agreement immediately on giving written notice to the other in the event that the other party:

13.1.1 is in material, sustained or repeated breach of any of its obligations under the Agreement and fails to remedy the breach (if capable of remedy) within 30 days after receipt of written notice by the first party stating the breach and requiring it to be remedied; or

13.1.2 ceases trading or threatens to cease trading, or becomes apparently insolvent or has a trustee in sequestration appointed, combines with its creditors, or has a liquidator, receiver or administrator appointed over all or any of its assets (other than for the purposes of solvent amalgamation or reconstruction) or undergoes any analogous act or proceeding under foreign law; or

13.1.3 (being an individual or, where it is a firm or partnership, any of its partners or members) has a petition presented for his or her bankruptcy; or

13.1.4 (being a firm or partnership) proposes or has presented against it a petition for its dissolution.

13.2 For the purposes of Clause 12.1.1, a breach will be capable of remedy if the offending party could comply with the provisions in question in all respects other than as to the time for performance.

13.3 In addition to any other rights of termination contained in the Agreement, if the Customer breaches any of the terms of this Agreement in respect of confidentiality or warranties, Stoneridge may, at its option:

13.3.1 suspend performance of any of the Services until the breach is remedied; or

13.3.2 terminate the Agreement or the provision of any part of the Services and terminate any licenses granted in relation to the Services.

13.4 In the event of suspension or termination of this Agreement, Stoneridge reserves the right to deactivate the Customer's access to its account.

14. **CONSEQUENCES OF TERMINATION**

14.1 Any termination of the Agreement will be without prejudice to any other rights or remedies of either party under the Agreement or at law and will not affect any accrued rights or liabilities of either party at the date of termination nor will termination affect any rights or obligations of the parties which are to be observed or performed after such termination including without limitation those obligations of confidentiality and warranties as set out in the Agreement.

14.2 Upon termination of the Agreement for whatever reason, all Fees and other amounts due to Stoneridge up to and including the date of termination will become immediately payable by the Customer.

14.3 Within seven (7) days after the date of termination of the Agreement, for whatever reason, each of the parties will deliver up to the other all property of whatever nature belonging to the other party which may be in its possession or under its control at the date of termination including any copies.

15. **FORCE MAJEURE**

Neither party will be liable for, or be considered to be in breach of or default under the Agreement as a result of any event of Force Majeure. Subject to the party so delaying promptly notifying the other party in writing of the reasons for the delay (and the likely duration of the delay) the performance of such party's obligations will be suspended during the period that the circumstances persist and that party will be granted an extension of time for performance of its obligations equal to the period of the delay. If the delay continues for more than 90 days, either party may terminate the Agreement immediately on giving notice in writing to the other, and neither party will be liable to the other for the termination except that the Customer will pay Stoneridge for all Services provided up to the date of termination.

16. **NOTICES**

16.1 All notices pursuant to this Agreement shall be sent by fax or email and will only be effective upon receipt provided that the fax or email is confirmed by letter sent to the registered office of the party in question or as otherwise notified by the other party, by courier within 24 hours of faxing.

17. **GENERAL**

17.1 **Assignment:** The Customer is not permitted to assign or novate the benefit and/or burden of the Terms and Conditions without Stoneridge's prior written consent. Stoneridge is entitled to sub-contract its obligations under the Agreement without the prior consent of the Customer.

17.2 **Publicity:** Stoneridge reserves the right to use an outline description of the Customer and the Services in its promotional literature and other marketing materials.

17.3 **Entire Agreement:**

17.3.1 The Agreement sets out the entire agreement between the parties in relation to the subject matter of the Agreement and supersedes all previous negotiations, representations, undertakings and agreements both written and oral made between the parties with respect to the subject matter.

17.3.2 The Customer acknowledges and agrees that in entering into the Agreement, and the documents referred to in it, it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement as a warranty. The only remedy available to it for breach of the warranties will be for breach of contract under the terms of the Agreement.

17.4 **Suitability of Services:** The Customer acknowledges that it is the Customer's obligation to determine whether the Services are fit for the purposes for which the Customer has ordered them, regardless of whether the Customer has expressed such purpose to Stoneridge or whether Stoneridge could reasonably have been aware of such purpose.

17.5 **Severability and Waiver:** If any provision of the Agreement is judged to be illegal or unenforceable by a court of competent jurisdiction or other competent authority, the provision will be severed from the remainder of the Agreement which will continue in full force and effect. No failure to exercise or delay by either party in exercising any right or remedy under the Agreement or at law will operate as a waiver of the right or remedy or a waiver of any other rights and remedies.

17.6 **Variation:** Any amendment or variation to these Terms and Conditions or the Agreement will not be binding on Stoneridge unless set out in writing, expressed to amend the Terms and Conditions or the Agreement and signed by the Managing Director of Stoneridge.

17.7 **Relationship:** The relationship between the parties is as set out in the Agreement and no employment, joint venture, partnership or agency relationship will be deemed to subsist between the parties and neither will have the authority to bind the other.

17.8 **Jurisdiction:** This Agreement shall be governed by and construed in accordance with Scots law, save where the Customer's principal place of business is in England and Wales, where this Agreement shall be governed by and construed in accordance with English law.

17.9 **Ethical Business Practice Statement:** Stoneridge Electronics Ltd is committed to ethical business practices in compliance with the UK Bribery Act 2010. Stoneridge Electronics Ltd has a zero-tolerance of bribery or any activities which amount to unethical or corrupt business practice. A copy of our policy is available on request from ethics.eu@stoneridge.com