



Kraken Robotics

General Terms and Conditions of Services

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General Terms and Conditions of Services

The following terms and conditions of services and the proposal to which they are attached (together the "Contract") shall apply to any services by Kraken Robotics Inc and any of its affiliates (hereinafter called "Kraken"). The scope of the services is outlined in the proposal to which these terms are attached (the "Services"). The Contract shall be binding if the Client does not deliver to Kraken written objection to the Contract or any part thereof prior to commencement by Kraken of the Services. The Contract constitutes the entire agreement between the Parties with respect to the Services and supersedes all prior negotiations, representations or agreements related to the Contract, either written or oral.

1. General

In the event of any conflict or inconsistency between this Contract and the terms and conditions contained in the Client's order or in any other form issued by the Client, whether or not any such form has been acknowledged or accepted by Kraken, this Contract shall prevail unless Kraken has explicitly agreed to the Client's terms and conditions in writing. No waiver, alteration, or modification of this Contract shall be binding upon Kraken unless made in writing and signed by a duly authorized representative of Kraken.

2. Quotations and Order Acceptance

Any quotation prepared by Kraken either directly or by an authorized sales representative of Kraken shall expire within the validity period set out in the proposal, and after such time period the quote is no longer valid. The Client may accept the quotation by delivering a purchase order that incorporates the quotation by reference. The Contract effective date shall be the date of acceptance communicated by Kraken to the Client in writing. Confirmation of the purchase order by the Client constitutes the Client's unconditional acceptance of the purchase order including the Contract, unless Kraken has explicitly agreed to the Client's terms and conditions in writing.

3. Price/Payment Terms

All prices are in the currency specified in the proposal. Prices are subject to correction for error. The purchase price for the Services excludes the governmental or brokerage taxes, duties, and fees specified in the proposal. All payment terms are subject to Kraken's credit approval at the time of acknowledgment of order acceptance. Invoices are payable within thirty (30) days of the invoice date. Payments that are outstanding more than ten (10) days from their respective due date shall bear interest at 1% per month (12% annually) until fully paid. All payments shall be via wire transfer in accordance with the banking information provided by Kraken. Invoices will be submitted in accordance with the milestones set out in the proposal.

4. Delivery

Kraken will make a reasonable effort to meet the proposed delivery schedule but shall not be liable for loss or damage resulting from delay. Unless otherwise agreed in writing, the delivery term shall be DAP Incoterm 2020 for all equipment supplied by Kraken.

5. Default

If the Client fails to perform its obligations with respect to payments as noted in Article 3 above or if the Client fails to promptly give reasonable assurances of their future performance when requested by Kraken, then Kraken may, upon ten (10) day's written notice to the Client, declare the Client to be in default. Kraken may then suspend performance of its obligations hereunder without liability and retain all rights and remedies Kraken may possess at law, in equity and/or as provided in the Contract. The Client shall indemnify Kraken in full against all loss, costs, damages, charges, and expenses incurred by Kraken as a result of such default.



6. Cancellation/Changes

If the Client cancels the Contract for any reason, the Client will make payment for all Services completed up to the date of cancellation together with all Kraken's demobilization costs and all other reasonable costs incurred by Kraken and any cancellation fees specified in the proposal.

Changes to the specification, and delivery schedule or any material term of the Contract, may only be made by the Client and Kraken in writing ("Change Order"). This Change Order will state Kraken and the Client's (together "the Parties") agreement on 1) Changes in specification, scope of work, or delivery instructions; 2) Adjustment to the purchase price; 3) Adjustment to the period of performance. If the Client has communicated proposed changes to Kraken, then Kraken may at its sole discretion: 1) Accept the Change Order, 2) Reject the Change Order and continue performance under the existing Contract, or 3) cancel the Contract.

7. Force Majeure/COVID-19

The Parties shall not be liable hereunder for failure or delay of performance of obligations under the Contract (other than payment of moneys and Kraken shall remain entitled to receive payment for its Services during a force majeure event to the extent that its personnel and/or equipment are required to remain at the worksite or otherwise on standby) due to causes (a) arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of such Party, including, but not limited to, acts of God, strike, lockout, labour disputes, shortage of transportation, embargo, prohibition of import or export of the goods, governmental orders or restrictions, shortage of materials or labour, utility or communication failure, war, fire, explosion, sabotage, storm, flood, earthquake, or epidemics, (b) that it could not reasonably have been expected to have taken the occurrence of the impediment into account at the time of the conclusion of the Contract, and (c) it could not reasonably have avoided or overcome the effects of such impediment, and the Parties shall not be regarded as in default in performance of the Contract. The Party affected by the force majeure shall promptly notify the other Party immediately and in detail of the commencement and nature of such circumstances and nature of such circumstance and the probable consequences of it. The Party whose performance is delayed must use reasonable efforts to perform its obligations in a timely manner, must employ all resources reasonably required in the circumstances and must obtain suppliers and services from other sources if reasonably available and if satisfactory to the other Party. If any of these causes, prevents or delays performance for more than 60 consecutive days, the Party not affected by the force majeure hereunder may terminate the Contract, effective immediately on written notice to the other Party.

The Parties shall take all reasonable measures to prevent COVID-19 infection amongst the Kraken Group (as defined below) personnel and the Client Group (as defined below) personnel and will provide all reasonable co-operation in the prevention and mitigation of any impact of COVID-19 on the performance of this Contract. If the Contract is delayed or temporarily prevented as a result of COVID-19, Kraken shall remain entitled to receive payment from the Client in accordance with the proposal. If COVID-19, prevents or delays performance for more than 60 consecutive days, either Party may terminate the Contract, effective immediately on written notice to the other Party.

8. Warranty

Kraken warrants until demobilization by it from the worksite on completion of the Services (the "Warranty Period"), that it has performed the Services in accordance with the provisions of the Contract. This warranty is limited to re-performance of any Services not in accordance with the Contract during the Warranty Period only. Any and all re-performed Services shall be covered by the same Warranty Period. The warranty provided in this Article 8 shall be the only warranty for the Services, all other warranties express or implied by law, contract or otherwise are hereby excluded.



9. Consequential Loss

For the purposes of this Article 9 the expression “Consequential Loss” shall mean:

- (a) consequential or indirect loss under English law; and
- (b) loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit, or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (a), and whether or not foreseeable at the effective date of the Contract.

Notwithstanding any provision to the contrary elsewhere in the Contract, the Client shall save, indemnify, defend and hold harmless Kraken, its subcontractors, its and their affiliates, its and their respective directors, officers, representatives, agents and employees, excluding any member of the Client Group (together the “**Kraken Group**”) from the Client, its subcontractors, its and their affiliates, its and their respective directors, officers, representatives, agents and employees, excluding any member of the Kraken Group (together the “**Client Group**”) own Consequential Loss and Kraken shall save, indemnify, defend and hold harmless the Client Group from the Kraken Group’s own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the Contract. All exclusions and indemnities given under this Article 9 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.

10. Indemnity

10.1 Kraken shall be responsible for and shall save, indemnify, defend, and hold harmless the Client Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:

- (a) loss of or damage to property of the Kraken Group whether owned, hired, leased, or otherwise provided by the Kraken Group (excluding any property of the Kraken Group while in the care, custody and control of the Client Group) arising from, relating to or in connection with the performance or non-performance of the Contract; and
- (b) personal injury including death or disease to any personnel of the Kraken Group arising from, relating to or in connection with the performance or non-performance of the Contract; and
- (c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Kraken Group. For the purposes of this Article 10.1(c) “third party” shall mean any party which is not a member of the Client Group or Kraken Group.

10.2 The Client shall be responsible for and shall save, indemnify, defend, and hold harmless the Kraken Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:

- (a) loss of or damage to property of the Client Group, whether: -
 - (i) owned or hired by the Client Group (including any property of the Kraken Group while in the care, custody and control of the Client Group), or
 - (ii) leased or otherwise obtained under arrangements with financial institutions by the Client Group which is located at the worksite arising from, relating to or in connection with the performance or non-performance of the Contract; and
- (b) personal injury including death or disease to any personnel of the Client Group arising from, relating to or in connection with the performance or non-performance of the Contract; and

(c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Client Group. For the purposes of this Article 10.2(c) "third party" shall mean any party which is not a member of the Kraken Group or Client Group.

10.3 Except as provided by Article 10.1(a), Article 10.1(b) and Article 10.4, the Client shall save, indemnify, defend, and hold harmless the Kraken Group from and against any claim of whatsoever nature arising from pollution emanating from the property of the Client Group (including any property of the Kraken Group while in the care, custody and control of the Client Group) or any other source arising from, relating to or in connection with the performance or non-performance of the Contract.

10.4 Except as provided by Article 10.2(a) and Article 10.2(b) Kraken shall save, indemnify, defend, and hold harmless the Client Group from and against any claim of whatsoever nature arising from pollution occurring on the premises of Kraken Group or originating from the property and equipment of Kraken Group (including but not limited to marine vessels but only if provided by the Kraken Group as part of the Services and excluding any property of the Kraken Group in the care, custody and control of the Client Group) arising from, relating to or in connection with the performance or non-performance of the Contract.

10.5 All exclusions and indemnities given under this Article 10 (save for those under Articles 10.1(c) and 10.2(c)) shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.

10.6 If either Party becomes aware of any incident likely to give rise to a claim under the above indemnities, it shall notify the other and both Parties shall co-operate fully in investigating the incident.

10.7 The indemnities given by the parties under this Contract are full and primary and shall apply irrespective of whether the indemnified party has, or has not, insurance in place relating to any claims, losses, damages, or costs in respect of the subject matter of any indemnity given under this Contract.

10.8 Each Party expressly agrees that the indemnities set out in this Article 10 do not extend to criminal sanctions imposed upon it, arising from, relating to or in connection with the performance or non-performance of the Contract.

11. Insurances

Kraken will hold only the following insurances in relation to and during the performance of the Services:

- (a) Employers' Liability insurance covering personal injury to or death of the employees of Kraken engaged in the performance of the Services up to £15,000,000 any one occurrence;
- (b) General Third Party Liability insurance for any incident or series of incidents covering the operations of Kraken in the performance of the Contract up to £15,000,000 any one occurrence and in the aggregate any one insurance period; and
- (c) Marine Equipment Insurance for the full replacement value of Kraken's equipment while it is in Kraken's care, custody and control and the Client will hold Marine Equipment Insurance for the full replacement value of Kraken's equipment while in the Client Group's care, custody and control.

To the extent that the Client requires Kraken to hold any additional insurance or increased levels of existing insurance this shall be rechargeable to the Client in accordance with the proposal.

The Client shall arrange appropriate insurance to cover its liabilities under the Contract. All insurances required under this Article 11 shall be endorsed to provide that underwriters waive any rights of subrogation rights against the other Party's Group (as defined in Article 10 above) to the extent of the liabilities assumed by that Party under the Contract. The provisions of this Article 11 shall in no way limit the liability of Kraken or the Client under the Contract.



12. Intellectual Property

No rights in intellectual property, including but not limited to, license or other rights under any patents, copyrights, trade secrets, or trademarks owned or controlled by Kraken or under which Kraken is licensed, are granted to the Client, or implied by the Services hereunder.

Each Party shall retain ownership of all confidential information and intellectual property it had prior to the Contract. All new intellectual property conceived or created by Kraken in the performance of the Contract, whether alone or with any contribution from the Client, shall be owned exclusively by Kraken. The Client agrees to deliver assignment documentation as necessary to achieve that result.

13. Governing Law and Dispute Resolution

This Contract shall be governed by the laws of England and Wales.

Should changes in any applicable laws, rules and regulations, including any change in interpretation of the same and/or (ii) in taxes, custom duties, tariffs, levies, charges or fees, licences or consents, currency or exchange rates or on trade or the movement of goods, services or people, which occur after the effective date of the Contract, result in increases in the cost to Kraken of performing the Services and/or to the time required by Kraken to complete the Services, Kraken shall be entitled to a Change Order to reflect the increase in the price and/or change to the schedule.

All disputes arising in connection with the Contract shall be resolved in accordance with this Article 13. If a dispute is not resolved by negotiations, either party may give written notice. If the dispute is not then resolved by consultations or mutually agreed mediation within thirty (30) business days after giving notice, then either party, upon written notice to the other party may commence arbitration. The dispute shall be submitted to and finally resolved by arbitration under the Rules of the London Court of International Arbitration. The legal place of arbitration shall be London, England. There shall be one mutually acceptable arbitrator. If the parties cannot agree on a mutually acceptable arbitrator, then each party shall select one arbitrator within thirty (30) business days after giving or receiving the demand for arbitration. The arbitrators so selected shall select a third arbitrator. The procedural rules of the arbitration will be determined by the arbitrators. The arbitration proceedings shall be conducted in English. The decision of the arbitrators shall be final and binding upon both parties, and neither party shall seek recourse to a law court or other authority to appeal for revisions of the decision.

14. Severability

If any term of the Contract is determined to be unenforceable or invalid, that unenforceability or invalidity shall not affect the remaining portions of the Contract and such unenforceable or invalid article, section or portion hereof shall be deemed to be severed from the remainder of the Contract.

15. Assignments

The rights and duties of the Client hereunder shall not be assignable by the Client without the prior written consent of Kraken, and any purported assignment or assumption without such consent shall be null and void.

16. Confidentiality

Kraken and the Client may each provide the other party with confidential information in connection with the Contract. Confidential information means information that is designated in writing as "confidential" or "proprietary" by the disclosing party at the time of written disclosure. In addition, prices for Services shall be considered Kraken's confidential information.

KRAKEN ROBOTICS' GENERAL TERMS AND CONDITIONS OF SERVICES



The receiving party agrees: (i) to use the confidential information only in connection with the Contract and use of Services, (ii) to take reasonable measures to prevent disclosure of confidential information to third parties, and (iii) not to disclose the confidential information to a competitor of disclosing party. Notwithstanding these restrictions, (a) Kraken may disclose confidential information to its affiliates and subcontractors in connection with performance of the Contract, (b) a receiving party may disclose confidential information to its auditors, (c) the Client may disclose confidential information to lenders as necessary for the Client to secure or retain financing needed to perform its obligations under the Contract, (d) a receiving party may disclose confidential information to any other third party with the prior written permission of the disclosing party, and in each case, only so long as the receiving party obtains a non-disclosure commitment from any such subcontractors, auditors, lenders or other permitted third party that prohibits disclosure of the confidential information and provided further that the receiving party remains responsible for any unauthorized use or disclosure of the confidential information. The receiving party shall upon request return to the disclosing party destroy all copies of confidential information except to the extent that a specific provision of the Contract entitles receiving party to retain an item of confidential information.

The obligations under this article 16 shall not apply to any portion of the confidential information that: (i) is in the public domain (ii) after disclosure to a party becomes part of the public domain otherwise than as a result of the wrongful act of that party (iii) is received from a third party provided that it was not acquired directly or indirectly by that third party from a Party to this Contract; or (iv) is required to be disclosed by law or any government or governmental body, authority or agency having authority over a Party.

Each disclosing party warrants that it has the right to disclose the information that it discloses. Neither the Client nor Kraken shall make any public announcement about the Contract without prior written approval of the other Party. Such written approval shall not be unreasonably held. Kraken may list the Client as a customer in its brochures and on its website without prior approval. As to any individual item of confidential information, the restrictions under this article 16 shall expire five (5) years after the date of disclosure. Article 16 does not supersede any separate confidentiality or nondisclosure agreement signed by the Parties.

The Client consents and agrees to Kraken's collection, use and maintenance of the Client's personal data as defined in applicable privacy legislation for the purpose of facilitating the performance of and payment for the Services. To the extent that Kraken shares any personal data in relation to the Kraken Group with the Client, the Client agrees to comply with all notification requirements and other applicable obligations under the Data Protection Act 2018, the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 and all other legislation relating to the processing of personal data and privacy (together the "Data Protection Legislation"), which arise in connection with the Contract. The terms Personal Data and Data Processor shall be as defined in the Data Protection Legislation. Notwithstanding the generality of the foregoing, where the Client Group is processing Personal Data as a Data Processor for Kraken or any member of the Kraken Group, the Client shall ensure that it and all relevant members of the Client Group have in place appropriate technical, organizational, and contractual measures to ensure the security of the Personal Data (and to guard against unauthorized or unlawful processing of

Personal Data and against accidental loss or destruction of, or damage to, the Personal Data) and shall: (a) promptly provide Kraken with full co-operation and assistance and such Personal Data as Kraken may require to comply with any and all data access request(s) within the relevant timescales set out in the Data Protection Legislation or to satisfy itself that the Client is complying with its obligations under the Data Protection Legislation and/or this Clause 16; (b) promptly notify Kraken of any breach of the security measures required to be put in place pursuant to the Data Protection Legislation; (c) ensure that no member of the Client Group knowingly, recklessly or negligently does or omits to do anything which places any member of the Kraken Group in breach of its obligations under the Data Protection Legislation; and (d) not subcontract the processing of Personal Data to any person or transfer or process Personal Data without the express prior written consent of Kraken.



17. Termination

The Contract may be terminated, immediately by either Party if the other Party becomes insolvent, is dissolved, or liquidated, makes a general assignment for the benefit of its creditors, files or has filed against it a petition in bankruptcy, or has a receiver appointed for a substantial part of its assets. If either Party materially breaches any provision of the Contract and such breach continues for more than thirty (30) days after the breaching party has received written notice of the breach from the non-breaching party without the breaching party having commenced and continued with action to remedy the breach, the non-breaching party shall have the right to terminate the Contract on five (5) days prior written notice to the other party.

18. Notice

All notices, requests, claims, demands, and other communications between the Parties shall be in writing. All notices shall be given i) by delivery in person ii) by first class, registered, or certified mail iii) by electronic mail to the address of the party specified in the Contract or such other address as either party may specify in writing. All notices shall be effective upon i) receipt by the Party to which notice is given or (ii) the fifth day following mailing, whichever occurs first.

The following addresses shall be used for notice as above:

Email: ladu@krakenrobotics.com

Courier: Lynne Adu, Suite A, Pavilion 7, Kingshill Park, Venture Drive, Westhill, Aberdeen, Scotland, AB32 6FL

19. Headings

The headings used herein are for reference purposes only and shall not affect the meaning or interpretation of any term, condition, or provision herein.

20. General

This Contract may be executed and delivered, in counterparts, each of which shall be an original, but all of which shall be deemed to be one and the same instrument and shall be binding when so signed.

21. Limitation of Liability

Kraken's total cumulative liability to the Client arising out of or related to the performance of the Contract shall be limited to 25% of the Contract Price, provided only that this limitation shall not apply to any indemnity given by Kraken under Article 10.

22. Contracts (Rights of Third Parties) Act

Notwithstanding the Contracts (Rights of Third Parties) Act 1999 the Parties confirm that Articles 9, 10 and 11 are intended to be enforceable by members of the Kraken Group (other than Kraken) and members of the Client Group (other than the Client).