

Olancha Holdings Ltd , Olancha Group Ltd and Siretta Ltd
TERMS AND CONDITIONS OF SALE

1. **Interpretation**
1.1 **Definitions**
Business Day: a day other than a Saturday, Sunday or Public Holiday in England, when Banks in London are open for business.
Contract: the contract established when both parties have signed the Quotation issued by the Supplier.
Commencement Date: the date the Contract commences as set out in the Quotation.
Conditions: these terms and conditions.
Delivery Date: the date specified for delivery in the Contract.
Delivery Location: the address for delivery of the Goods and/or Services, as set out in the Contract.
Force Majeure Event: events, circumstances or causes beyond a party's reasonable control.
Goods: the Goods (or any part of them) as set out in the Contract.
Price: the price for the Goods or Services as set out in the Contract.
Services: the Services to be supplied by the Supplier to the Customer under the terms of the Contract, including allowing the Customer to access and use the Software including hosting, set-up and on-going services as described in the Contract.
Software: The Supplier's proprietary software as described in the Contract.
Specification: the specification for the Goods or Services, including any related plans and drawings that are agreed in writing by the Customer and the Supplier as set out in the Contract.
Supplier: Olancha Holdings Ltd and any subsidiary including Olancha Group Ltd and Siretta Ltd.
VAT: value added tax, or any equivalent tax, chargeable in the UK.
- 1.2. **Interpretation:**
(a) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
(b) Any phrase introduced by the terms including, include, in particular, for example, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
(c) A reference to writing or written includes fax and emails.
2. **Commencement and Term**
This Contract shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with its terms, until the Goods or Services have been delivered by the Supplier.
3. **The Goods**
3.1. The Supplier shall supply the Goods as set out in the Contract.
3.2. Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
3.3. The Supplier reserves the right to make changes in the design and manufacture of any of the Goods without incurring any obligation to revise items manufactured for or delivered to the Customer prior to such change. The Customer is responsible for the validation of the product design and to determine that the product is suitable for use in the Customer's intended application. The Customer is deemed to have accepted and validated the product design upon acceptance of the delivery from the Supplier. The Supplier will use the current revision of reference documents unless the Customer states a different revision under the terms of the Contract.
3.4. The Supplier assumes no responsibility for the accuracy of any design specifications, requirements and/or instructions provided by the Customer. Acceptance by the Customer of any custom or non-standard product provided by the Supplier shall constitute an acknowledgment that the Customer has reviewed the designs of such products and is satisfied with the products or Goods and is satisfied that the designs meet all the specifications, requirements and standards applicable to such products. The Customer further agrees on the request by the Supplier it will execute a Design Approval Form confirming the matters contained in this paragraph and that the Supplier may withhold shipment of such products pending execution of such Form.
3.5. Any technical advice, recommendations, demonstrations, lab tests and/or samples provided by the Supplier or its representatives concerning the use, application and compatibility of any Goods or materials provided by the Supplier solely for the purpose of assisting the Customer to evaluate its own risk for suitability of the Supplier's products for the Customer's intended use. No such practice/s provided by the Supplier shall be construed as an expressed or implied warranty.
3.6. The Customer will thoroughly inspect each shipment of Goods promptly upon delivery. All Goods will be deemed to have been accepted 10 days after delivery, except for products in respect of which the Customer makes a written claim of non-conformance within such time. All Goods made the subject of such claim will be deemed to have been accepted 10 days after delivery of the conforming Goods. No Goods may be returned to the Supplier except by prior authorisation by the Supplier confirmed by the issuing of a Returns Material Authorisation (RMA). All such returns will be subject to the Supplier's then current return policies and procedures.
4. **The Services**
4.1. The Supplier shall host the Software.
4.2. The Supplier grants to the Customer on and subject to the terms of the Contract a non-exclusive, non-transferable Licence without the right to grant Sublicences to access the Software and to use the Software during the term of the Contract solely for the Customer's business purposes.
4.3. The Customer shall not store, distribute, introduce or transmit through the Software:
(a) any virus;
(b) any vulnerability; or
(c) any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;
4.4. The rights granted under this clause are granted to the Customer only, and shall not be considered granted to any subsidiary or holding Company of the Customer.
4.5. The Customer shall not:
(a) attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Software except to the extent expressly set out in this agreement or as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties; or
(b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
(c) access all or any part of the Software in order to build a product or service which competes with the Software and/or the Services; or
(d) use the Software to provide services to third parties; or
(e) transfer, temporarily or permanently, any of its rights under this agreement; or
(f) attempt to obtain, or assist third parties in obtaining, access to the Software.
4.6. The Customer acknowledges that the Supplier is dependent on the Customer fulfilling its obligations as set out in the Contract and the Supplier will not be liable for any breaches which result wholly or in part from the Suppliers failure or omission to fulfil its obligations under the Contract or from the failure or omissions of its employees, agents or subcontractors.
5. **Delivery**
Unless otherwise stated in the Contract, Goods will be delivered EXW, Siretta's facility in Reading, Berkshire, UK. Risk of loss will pass to the Customer at the Supplier's facility in Reading, Berkshire, UK. The Supplier may indicate a shipment or service date for certain items to be supplied to the Customer. The Supplier reserves the right to ship in advance of any date or time provided by the Customer for delivery and to delivery instalments. Such dates are estimates only and may be subject to change by the Supplier without liability. The Customer shall not be entitled to treat these terms as repudiation in the event of such failure to deliver the Goods. The Supplier shall have no liability for direct, indirect, special, incidental or consequential damages due to failure for any reason to meet scheduled shipment dates. The Supplier shall not be liable for any damage to or loss of Goods following delivery to the EXW point including any damage or loss in transit. The Supplier is not responsible for any liquidated damages.
6. **Quality and fitness for purpose**
6.1. The Supplier warrants that, for a period of two years from the date of delivery (**warranty period**), the Goods shall:
(a) conform with their description and Specification;
(b) be free from material defects in design, material and workmanship;
(c) be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
(d) be fit for any purpose held out by the Supplier.
6.2. Subject to clause 6.3, if:
(a) the Customer gives notice in writing to the Supplier during the warranty period, within 10 Business Days of discovery, that some or all of the Goods do not comply with the warranties set out in clause 6.1;
(b) the Supplier is given a reasonable opportunity of examining such Goods; and
(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,
the Supplier shall, at its option, repair or replace any Goods that are found to be defective or refund the price of such defective Goods in full.

- SIRETTA MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED OR STATUTORY, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, SUBJECT TO 6.1 (d) ARE HEREBY DISCLAIMED. This warranty does not apply to any products that have been (i) damaged by lightning, water, or power surges; (ii) neglected, altered, abused, or used for a purpose other than the purpose for which they were provided; (iii) repaired by Customer or any other party without Siretta's prior written authorization; (iv) used in conjunction with a third party product or products not approved in advance by Siretta; or (v) used in any manner inconsistent with any instructions provided by Siretta. Siretta's entire obligation under this warranty shall be limited at its option to repair or replacement of any products which prove to be defective within the warranty period or issuance of a refund of the purchase price. Defective products must be returned by Customer to Siretta's factory, transportation prepaid. In the event that the product is found to be faulty as a result of Siretta then such prepayment of shipping will be refunded to the Customer.
- The Supplier shall not be liable for Goods' failure to comply with the warranties set out in clause 6.1 if:
(a) the Customer makes any further use of such Goods after giving notice of defects in accordance with clause 6.2;
(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
(c) the defect arises as a result of the Supplier following any drawing, design [or Specification] supplied by the Customer;
(d) the Customer alters or repairs such Goods without the written consent of the Supplier;
(e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
(f) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.4. The Supplier's only liability to the Customer if the Goods fail to comply with the warranties set out in clause 6.1 is as set out in this clause 6.
6.5. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
6.6. The terms of the Contract shall apply to any repaired or replacement Goods supplied by the Supplier.
7. **Title and risk**
7.1. Risk in Goods shall pass to the Customer on completion of unloading the Goods at the Delivery Location.
7.2. Title to Goods shall only pass to the Customer once the Supplier receives payment in full (in cash or cleared funds) for them.
7.3. Until title to the Goods has passed to the Customer, the Customer shall:
(a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
(c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
(d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 1.1(b); and
(e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
(i) the Goods; and
(ii) the ongoing financial position of the Customer.
- 7.4. The Supplier may recover Goods in which title has not passed to the Customer. The Customer irrevocably licenses the Supplier, its officers, employees and agents, to enter any premises of the Customer (including with vehicles), in order to satisfy itself that the Customer is complying with the obligations in clause 7.3, and to recover any Goods in which property has not passed to the Customer.
7.5. The Supplier may at any time after delivery elect to transfer title in the Goods to the Customer, in which case the Customer shall immediately pay the Price to the Seller.
8. **Product recall**
8.1. If the Customer is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods from the market (**Recall Notice**) it shall immediately notify the Supplier in writing enclosing a copy of the Recall Notice.
8.2. Unless required by law, the Customer may not undertake any recall or withdrawal without the written permission of the Supplier and only then in strict compliance with the Supplier's instructions as to the process of implementing the withdrawal.
9. **Price and payment**
9.1. The Customer shall pay for Goods in accordance with this clause 9.
9.2. The Price excludes:
(a) the costs of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer in addition to the Price; and
(b) amounts in respect of VAT, which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to the receipt of a valid VAT invoice.
9.3. The Supplier will invoice the Customer for the price of Goods or Services plus VAT at the prevailing rate (if applicable) on or at any time after the goods are shipped, or in the case of services, prior to commencement of the provision of such service. The Supplier shall ensure that the invoice includes the date of the invoice, the invoice number, the contract number where applicable, the Customer's order number, the Supplier's VAT registration number, and any supporting documentation that the Customer may reasonably require.
9.4. Unless a credit facility has been formally agreed then payment must be made at the time of the order placement and this will be facilitated by the issuing of a proforma invoice. In such circumstance the order will not be accepted or acknowledged until funds are received in full.
9.5. Where a credit facility has been formally agreed the Customer shall pay invoices in full in cleared funds within 30 Business Days of the invoice date. Payment shall be made to the bank account nominated in writing by the Supplier.
9.6. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then, without limiting the Supplier's remedies under clause 12:
(a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
(b) the Supplier may suspend all further deliveries of Goods until payment has been made in full.
9.7. All amounts due under the Contract from the Customer to the Supplier shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). The Supplier may at any time, without limiting any of its other rights or remedies, set off any amount owing to it against any amount payable by the Supplier to the Customer.
10. **Limitation of liability**
10.1. The Supplier has obtained insurance cover in respect of certain aspects its own legal liability for individual claims not exceeding £5,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess liability.
10.2. Nothing in this Contract shall limit or exclude the Supplier's liability for:
(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
(b) fraud or fraudulent misrepresentation;
(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
(d) defective products under the Consumer Protection Act 1987;
(e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
10.3. Subject to clause 10.2:
(a) the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
(b) SIRETTA IS NOT AND WILL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES AND UNDER NO CIRCUMSTANCES WHATSOEVER WILL SIRETTA'S LIABILITY, WHETHER IN CONTRACT, TORT, STATUTE, WARRANTY OR OTHERWISE, EXCEED THE PURCHASE PRICE OF THE PRODUCTS WHICH GIVE RISE TO THE CLAIM.
11. **Compliance with relevant laws and policies**
11.1. In performing its obligations under the Contract, the Supplier shall:
(a) comply with all applicable laws, statutes, regulations [and codes] from time to time in force; and
(b) comply with the Mandatory Policies.
Provided that the Supplier shall not be liable under the Contract if, as a result of such compliance, it is in breach of any of its obligations under the Contract.
11.2. The Customer may immediately terminate the Contract for any breach of this clause 11 by the Supplier.
12. **Termination**
12.1. Without limiting its other rights or remedies, either party may terminate this Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
 - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business.
 - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
 - (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 12.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.
- 12.3 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract which existed at or before the date of termination.
- 12.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
- 13. Indemnity**
- 13.1 The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Software or Services, provided that:
- (a) the Customer is given prompt notice of any such claim;
 - (b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - (c) the Customer is given sole authority to defend or settle the claim.
- 13.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the use of Software by the Customer in accordance with this Agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in final or unappealed judgment or settlement of such claims, provided that:
- (a) the Supplier is given prompt notice of any such claim;
 - (b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - (c) the Supplier is given sole authority to defend or settle the claim.
- 13.3 In the defence or settlement of the claim, the Supplier may obtain for the Customer the right to continue using the Software, replace or modify the Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this agreement without liability to the Customer. The Supplier shall have no liability if the alleged infringement is based on:
- (a) a modification of the Software by anyone other than the Supplier; or
 - (b) the Customer's use of the Software in a manner contrary to the instructions given to the Customer by the Supplier; or
 - (c) the Customer's use of the Software after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 14. General**
- 14.1 **Force majeure.** Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event.
- 14.2 **Assignment and other dealings.**
- (a) The Customer shall not assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.
 - (b) The Supplier may at any time assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights under the Contract.
- 14.3 **Confidentiality.**
- (a) Each party undertakes that it shall not at any time during the term of the Contract, and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 1.1(a). For the purposes of this clause, **group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
 - (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, contractors, sub-contractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, sub-contractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
 - (c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract.
- 14.4 **Entire agreement.**
- (a) This Contract constitutes the entire agreement between the parties.
 - (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 14.5 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 14.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 14.8 **Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered by hand, or sent by pre-paid first class post or other next working day delivery service, or email.
 - (b) A notice shall be deemed to have been received: if delivered by hand, when left at the address referred in clause 1.1(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or, if sent by email, one Business Day after transmission.
 - (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 14.9 **Third party rights.** No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.
- 14.10 **Governing law.** This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the law of England and Wales.
- 14.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.