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THIS AGREEMENT is between **BJSS Limited** of, 1 Whitehall Quay, Leeds LS1 4HR, a company registered in England and Wales and whose registered number is 2777575 (**'BJSS'**) and the individual, partnership, organisation or company purchasing Goods and/or Services from BJSS as identified in the Work Statement ('the **'Customer'**)

The Customer wishes to obtain and BJSS is willing to provide software, consultancy or other commercial services as may from time to time be agreed by the parties on the terms and conditions below (the **'Standard Terms'**)

IT IS AGREED as follows:

1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

"Agreement" means these Standard Terms and any Work Statement.

"Bribery Legislation" means the Bribery Act 2010, associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all applicable UK legislation, statutory instruments, regulations, codes and sanctions relating to anti-bribery and anti-corruption.

"Commencement Date" means the date specified in writing by the Customer or the first date upon which BJSS provides Services to the Customer if earlier.

"Confidential Information" means all confidential information (whether of a technical, commercial or any other nature whatsoever) provided directly or indirectly by either party (the "Disclosing Party") to the other party ("Recipient Party"), whether in oral, documentary, electronic or other form, and whether before, on or after the date of entering into this Agreement, whether or not labelled or designated as confidential, including to the business affairs, customers, suppliers, plans, market opportunities, operations, processes, product information, know-how, methodologies, designs, software, trade secrets and pricing information, together with any information or analysis derived from such confidential information (or which the Recipient Party) should reasonably be aware is confidential).

"Contact Data" means the Personal Data of each party's employees or staff (including any Contractor) Processed by the other party, under, or in connection with, this Agreement.

"Contract Charges" means all and any monies payable under the Agreement by the Customer to BJSS for the performance of the Services in accordance with this Agreement and any Work Statement.

"Contractor" means BJSS's personnel (including any employee, consultant, contractor, agent or subcontractor and their personnel) who is used to carry out the Services or part thereof. References to "Contractor" shall include any replacement / substitute appointed in accordance with clause 7.5.

"Customer Data" means the Personal Data made available to BJSS by the Customer under, or in connection with, this Agreement.

"Customer's Premises" means the premises specified by the Customer and as agreed and recorded in writing by BJSS.

"Data Protection Legislation" means all laws that relate to data protection, privacy, the use of information relating to individuals, and/or the information rights of individuals and all laws implementing them, in each case as may be replaced, extended or amended, including the General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 as well as all

applicable formal or informal guidance, rules, requirements, directions, guidelines, recommendations, advice, codes of practice, policies, measures or publications of the Information Commissioner's Office, other relevant regulator and/or relevant industry body, in each case in any relevant jurisdiction(s).

"Deliverables" means the Software and all products designed, developed, written or prepared by BJSS or a Contractor and all related documentation including to any specification, graphics, programs, data, reports and all other deliverables, written materials and/or computer output (including to manuals, brochures, catalogues, process descriptions, know-how, data, diagrams, charts, results, reports, information, methodologies, ideas, concepts, designs, documents, models, prototypes, sketches, drawings, plans, photographs, specifications and studies) produced in the course of providing the Services.

"Equipment" means the Customer's equipment (including but not limited to computer equipment and operating systems) located at the Customer's Premises.

"Force Majeure" means any cause beyond the reasonable control of the parties including act of God, pandemic or epidemic, civil commotion, riot, war, government act, fire, explosion, accident, flooding, hurricane, but shall not include strikes or industrial action of either party's employees or a Contractor.

"Hosting and Managed Services" has the meaning given to it in Schedule 2 (Hosting and Managed Services).

"Intellectual Property Rights" means patents, rights to inventions, copyright (including future copyright), utility models, trade marks, service marks (including rights in goodwill attached thereto), design rights, trade secrets, know-how, database rights, rights in get-up, rights in data, domain names and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same or similar rights, including all renewals or extensions of such rights, whether vested, contingent or future anywhere in the world.

"Insolvency Event" means in respect of either party one or more of the following events affecting such party (the **Affected Party**):

- (a) the Affected Party ceases or threatens to cease to carry on business or suspends all or substantially all of its operations, or suspends payment of its debts or becomes unable to pay its debts or is deemed to be unable to pay its debts within the meaning of section 123, 222, 223, 224 or 268 of the Insolvency Act 1986 (assuming, if necessary, that such sections apply to the Affected Party)
- (b) a winding-up petition is presented in respect of the Affected Party is not set aside within 14 days or circumstances arise which entitle a court of competent jurisdiction to make a winding up order of the Affected Party
- (c) the Affected Party enters into liquidation (as defined in section 247(2) of the Insolvency Act 1986) either compulsory or voluntary (save for the purposes of a solvent reconstruction or amalgamation previously approved in writing by BJSS) or a provisional liquidator is appointed in respect of the Affected Party
- (d) notice of intention to appoint an administrator is served in respect of the Affected Party or an application for an administration order is presented or a notice of appointment of administration is served in respect of the Affected Party or an administration order is made under Schedule B1 of the Insolvency Act 1986 in respect of the Affected Party is filed at Court
- (e) an administrative receiver, receiver or manager or similar officer is appointed under part III of the Insolvency Act 1986 in respect of the whole or any part of the Affected

Party's assets or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Affected Party

- (f) an application for an interim order under part VIII of the Insolvency Act 1986 is made
- (g) the Affected Party proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors
- (h) a distress, execution or other legal process is taken or steps are taken to enforce any encumbrance over all or part of the assets and/or undertaking of the Affected Party
- (i) the Affected Party sells its business (or any part thereof) relating (in the case of BJSS) to the Services
- (j) a provisional liquidator is appointed under section 135 of the Insolvency Act 1986
- (k) the Affected Party is subject to an event analogous to (a) to (h) above in any other jurisdiction.

"IR35 Regs" means Part 2 Chapter 10 of the Income Tax (Earnings and Pensions) Act 2003.

"ITEPA" means the Income Tax (Earnings and Pensions) Act 2003.

"Services" means the services to be provided by BJSS to the Customer by BJSS via Contractor(s) and as set out in a Work Statement.

"Software" means the computer programs in object code form which may be specifically developed by BJSS as part of the Services under the terms of this Agreement.

"VAT" means Value Added Tax.

"Work Statement" means a separate document in the format set out at the front of these Standard Terms which, will set out the details of the Services to be provided under a particular assignment under this Agreement which will form part of this Agreement.

1.2 In this Agreement:

- 1.2.1 Schedule 1 and Schedule 2 are incorporated into and form part of this Agreement;
- 1.2.2 any reference to this Agreement or to any other document will include the Schedules, appendices and annexes (if any) and any permitted variation or amendment to this Agreement or such other document;
- 1.2.3 any reference to a clause or Schedule is, except where expressly stated to the contrary, reference to the relevant clause of or Schedule to this Agreement;
- 1.2.4 the table of contents, background section and any clause, Schedule or other headings and the use of bold type in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;
- 1.2.5 a reference to any statute, statutory instrument, order, regulation or other similar instrument (including any EU order, regulation or instrument) will be construed as including references to any statutory modification, consideration or re-enactment of that provision (whether before, on or after the date of this Agreement) for the time being in force, including all instruments, orders or regulations then in force and made under or deriving validity from that legislation;

- 1.2.6 the words 'include', 'including', 'in particular' or any similar words and expressions will be construed as illustrative only and will not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.7 the use of the singular includes the plural and vice versa and a reference to one gender includes a reference to the other gender;
- 1.2.8 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email);
- 1.2.9 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.2.10 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns; and
- 1.2.11 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established.

2. RELATIONSHIP

- 2.1 The parties acknowledge and agree that:
 - 2.1.1 this Agreement (including the applicable Work Statements) are the only terms and conditions upon which BJSS is prepared to deal with the Customer in relation to the provision of and receipt of the Services (subject to any variations made in accordance with clause 20.8). For the avoidance of doubt, the Customer's terms and conditions shall not apply to any of the Services provided to it by BJSS or any Contractor;
 - 2.1.2 no Contractor shall be a party to the Agreement or any Work Statement;
 - 2.1.3 this arrangement is not exclusive. BJSS is and remains at liberty to provide services to third parties, subject to the obligations under the Agreement; and
 - 2.1.4 all Work Statements are subject to these Standard Terms. In the event of a conflict between the terms of a Work Statement and the terms of this Agreement, the terms of the Work Statement will prevail.
- 2.2 Unless authorised by the Customer, BJSS shall not, and shall procure that no Contractor shall:
 - 2.2.1 hold itself out as having authority to bind the Customer; nor
 - 2.2.2 hold out any Contractor as being an employee or worker of the Customer; nor
 - 2.2.3 have any authority to incur any expenditure in the name of or on behalf of the Customer

3. DURATION OF THE AGREEMENT

BJSS shall provide the Services to the Customer during the term of the Agreement which shall be the period from the Commencement Date until the Agreement is terminated in accordance with clause 13 (Termination and Consequences of Termination) or 14 (Force Majeure).

4. SERVICES

- 4.1 BJSS shall, and shall procure that any Contractor shall, provide the Services in accordance with these Standard Terms.
- 4.2 BJSS will provide one or more Contractors on an initial, replacement or substitute basis to perform the Services within timescales and at the Contract Charges set out in the relevant Work Statement.
- 4.3 Each request for Services or acceptance of a quotation or proposal for Services by the Customer from BJSS shall be deemed to be an offer by the Customer to buy Services subject to these Standard Terms. No order placed by the Customer shall be deemed to be accepted by BJSS until a written acknowledgement of order or Work Statement (including

by email) is issued by BJSS or (if earlier) BJSS commence with or delivers Services to the Customer.

- 4.4 The Customer shall ensure that the terms of any order and specification for services it requires from BJSS are complete and accurate. BJSS shall not be liable to the Customer in respect of any Services it provides which do not meet the terms or an order or specification due to incomplete or inaccurate information provided by the Customer.

Working Hours

- 4.5 BJSS shall procure that relevant skilled Contractors shall be provided to undertake such hours as may be agreed with the Customer.
- 4.6 The parties agree that a Contractor's normal working hours are between [09:00 – 17:00] (which includes a 1 hour paid lunch break) and a Contractor's normal working week is forty (40) hours per week (inclusive of the lunch break) during the required period in the performance of the Services, unless otherwise agreed in writing by the parties.
- 4.7 The Customer acknowledges and agrees that in the event that a Contractor is required to work outside normal business hours, in the absence of written agreement to the contrary, BJSS shall be entitled to charge the Customer an additional fee for all time [expended outside of the normal working hours].

Standard of Services

- 4.8 Any complaints which the Customer may have concerning the performance of Services by a Contractor should be notified as soon as reasonably practical to BJSS. BJSS shall use its reasonable endeavours to resolve any complaints received from the Customer in accordance with this clause 4.8.

Hosting and Managed Services

- 4.9 To the extent that BJSS provides any Hosting and Managed Services to the Customer as part of the Services, the provisions of Schedule 2 shall apply.

5. CALCULATION AND PAYMENT OF FEES AND EXPENSES

Charges and Payment

- 5.1 The parties acknowledge and agree that the Services shall be provided under this Agreement on a time and materials basis only, unless specifically agreed by the parties in writing.
- 5.2 The Customer shall pay BJSS the Contract Charges as set out in any Work Statement. If any Services are commenced without a Work Statement the Contract Charges shall be calculated on BJSS's then prevailing standard rate card tariff (which is available at [insert link].)
- 5.3 BJSS will invoice the Customer monthly in arrears. Each invoice shall specify the time spent by each Contractor and any expenses. The Customer will pay BJSS's invoices within 30 days of receipt of a valid VAT invoice.
- 5.4 Unless otherwise stated in a Work Statement or as agreed between the parties in writing, upon each anniversary of this Agreement BJSS may vary the Contract Charges set out in any Work Statement by no more than the rate of change of the Retail Prices Index for the preceding year. Any increases will come into effect on each anniversary of the Commencement Date.
- 5.5 All sums due to BJSS under the Agreement are exclusive of VAT, if any, which shall be charged in addition thereto in accordance with the relevant regulations in force at the time of making the relevant taxable supply and shall be paid by the Customer against receipt from BJSS of a valid Value Added Tax invoice in respect thereof.
- 5.6 BJSS will maintain accurate records of the time spent by each Contractor in respect of the provision of the Services.
- 5.7 The Contract Charges are exclusive of any expenses incurred by BJSS and/or a Consultant in respect of the provision of the Services. The Customer will reimburse BJSS for reasonable travel and hotel expenses incurred by any Contractors in providing the Services.

6. CUSTOMER'S OBLIGATIONS

- 6.1 The Customer will provide BJSS with such information as BJSS may reasonably need concerning the Customer's operations and answers to queries, decisions and approvals which may be reasonably necessary for the Contractor to undertake the Services. The Customer is responsible for ensuring that such information and answers are accurate and complete.
- 6.2 The Customer will provide free of charge the following facilities to BJSS and its Contractor throughout the Customer's normal business hours and at such other times as the Customer authorises after reasonable prior notice from BJSS and/or its Contractor (such authorisation not to be unreasonably withheld or delayed):
- 6.2.1 access to and use of the Equipment;
 - 6.2.2 access to the Customer's staff and the Customer's Premises;
 - 6.2.3 all electric power, lighting, heating and air conditioning at the Customer's Premises reasonably needed by the Contractor to perform the Services;
 - 6.2.4 to the extent the Contractor needs to work on the Customer's Premises, office space readily accessible to the Equipment which is suitable for this purpose and the provision of normal office services, including first aid, photocopying, wifi and telephone, (but excluding any secretarial support, typing and photocopying facilities needed to produce any documentation for which the Contractor is responsible) and such facilities may be used only for the purpose of the Services; and
 - 6.2.5 competent operators for the Equipment.
- 6.3 The Customer will be responsible for ensuring that the Equipment is properly installed and is sufficient and suitable for its purpose and that any adjustments which may be required are carried out expeditiously and at its own cost. The Customer is responsible at its own expense for the prompt and continuing availability to the Contractor of the Equipment and any other computing facilities to be provided by the Customer in good working order throughout the duration of this Agreement.
- 6.4 The Customer will, at its own cost, keep all Equipment in a safe and proper operating condition.
- 6.5 The Customer shall provide BJSS and any Contractor with all policies which the Contractor is required to comply with whilst on the Customer's Premises in accordance with clause 7.4 below.
- 6.6 The Customer will ensure that all software other than the Deliverables which is used on the Equipment is either the property of the Customer or legally licensed to the Customer and that the Contractor is permitted to use such software.
- 6.7 The Customer may suspend Services carried out at the Customer's Premises if the Customer reasonably believes conditions at the Customer's Premises represent a health or safety hazard to any of the Contractors.
- 6.8 The Customer acknowledges that if it has asked for or approved the inclusion of any third party software in the Deliverables; the Customer shall be responsible, unless BJSS has otherwise specifically agreed in writing, for the cost of and for obtaining the necessary licence(s) pertaining to that third party software.
- 6.9 The Customer shall provide the BJSS and any Contractors all reasonable co-operation in all matters relating to the performance of the Services including such access and staff cooperation as the Customer can reasonably provide and which the Contractors may reasonably require for the proper performance of the Services.
- 6.10 The Customer acknowledges that and agrees that BJSS shall not be liable for any failure by it or any Contractor to provide the Services as a result of the Customer's breach or non-performance of its obligations under this Agreement.

7. BJSS'S RESPONSIBILITIES

- 7.1 BJSS shall ensure that the Services will be performed using reasonable skill and care in a timely and professional manner using appropriately skilled, qualified and experienced Contractors.
- 7.2 BJSS shall notify the Customer if, for any reason, either it or any Contractor is unable to provide the Services as required by the Customer and shall specify the relevant justification for this inability to provide the Services, in writing if so required by the Customer.
- 7.3 BJSS shall not be responsible for providing any Deliverables unless specifically stated in a Work Statement.
- 7.4 Whilst working on the Customer's Premises, BJSS shall procure that the Contractor will comply with the normal rules and regulations (in so far as the Contractor has been notified by the Customer of these) governing the Customer's staff, provided always that the Customer shall permit the Contractor to have access to the Customer's Premises to undertake Services.
- 7.5 The Customer acknowledges and agrees that BJSS may, in its sole discretion, replace any Contractor of BJSS engaged in the performance of the Services on written notice to the Customer (provided that the replacement or substitute is appropriately qualified and experienced for the provision of the Services).

8. TAX STATUS AND IR35

- 8.1 This Agreement constitutes a contract for the provision of services and the relationship of BJSS (and any Contractor assigned to the Customer pursuant to this Agreement) to the Customer will be that of independent contractor and nothing in this agreement shall render any Contractor an employee of the Customer (for tax purposes of otherwise).
- 8.2 Where any Contractors are employees of BJSS or an BJSS Group company, BJSS agrees that it shall be solely responsible for all income tax and national insurance contributions arising in connection with remuneration it pays to such Contractors.
- 8.3 Where Contractors are not employees of BJSS or any member of the BJSS Group, if the Customer determines that it is required to make a status determination (**Determination**) in respect of any Contractor/s pursuant to the IR35 Regs it shall promptly notify BJSS that it considers a Determination is required together with its reasoning for deeming that a Determination is required.
- 8.4 Where the Customer makes a Determination it shall promptly, in writing, provide to BJSS and the relevant Contractor/s:
- 8.4.1 the outcome of the Determination, together with the reasons for reaching that Determination;
 - 8.4.2 all such information and documentation as the Customer took into account in making the Determination, which shall be complete, accurate, free of errors and omissions and not misleading in any respect; and
 - 8.4.3 all reasonable assistance as may be required by BJSS in assessing and responding to such Determination.
- 8.5 Where the Customer has notified BJSS that any Determinations are required it shall ensure that it has a client led status disagreement process in place in accordance with the requirements of s61T of ITEPA to include the means by which an appeal shall be made, contact details of parties to whom notice of an appeal shall be made and an indicative timescale for the appeal process (which shall include at BJSS having at least 30 Business Days from receipt of a Determination to make an appeal).
- 8.6 For the avoidance of doubt the Customer may only deduct income tax and class 1 primary (employee) national insurance contributions in respect of any Contractor from fees due to BJSS where it can prove, beyond reasonable doubt, that a Contractor would be treated as a deemed employee of the Contractors under the IR35 Regs and that the Customer would be treated as the "Fee Payer" in respect of such Contractor, pursuant to the meaning of

that term in section 61N of ITEPA and that the Customer is not "small" in accordance with section 60A of ITEPA.

9. LIMITATION OF LIABILITY

- 9.1 The Customer acknowledges that BJSS's obligations and liabilities in respect of the Services are exhaustively defined in this Agreement. The Customer agrees that the express obligations and warranties made by BJSS in this Agreement are the only warranties provided by BJSS and any other warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with this Agreement including (without limitation) as to the condition, quality, performance, merchantability or fitness for the purpose of the Services the Deliverables or any part of them are excluded to the extent permitted by law.
- 9.2 The Customer is responsible for the consequences of any use of the Deliverables.
- 9.3 Subject to clause 9.4, in relation to this Agreement and any obligations of BJSS, Services or Deliverables, BJSS shall not be liable to the Customer for any direct or indirect loss of anticipated savings, loss of business revenues, loss of profits, loss of use, loss of contract or opportunity, losses arising from business interruption or wasted management time, loss of goodwill, data and all other such loss whether or not arising in the normal course of business, nor any indirect, special or consequential loss, damage, cost or expense of any kind whatever and however caused even if BJSS has been advised of their possibility.
- 9.4 Nothing in this Agreement shall exclude either party's liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation or for which it is unlawful to limit or restrict liability.
- 9.5 Subject to clause 9.4, BJSS's total liability (whether in contract, tort, including negligence, or otherwise) under or in connection with this Agreement and any Work Statement shall be:
- 9.5.1 physical damage to or loss of the Customer's tangible property to the extent it results from the negligence of BJSS its employees, agents or sub-contractors in the course of their engagement under this Agreement up to the amount of £1,000,000 in respect of each incident or series of connected incidents; and
- 9.5.2 in respect of any other such liability in connection to the Services, exceed repayment of Contract Charges paid, one hundred percent (100%) of the total Contract Charges in the relevant Work Statement in aggregate, or £1,000,000 (one million pounds), whichever is the lesser.
- 9.6 The Customer will indemnify and keep indemnified and hold harmless BJSS from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by BJSS in respect of any third party claim for any injury, loss, damage or expense occasioned by or arising directly or indirectly from the Customer's possession, operation, use, modification or supply to a third party of the Deliverables and any part of them or Services provided under or in connection with this Agreement except for those instances where the Contractor is liable as expressly provided for in this Agreement.
- 9.7 The Customer acknowledges and agrees that it is not within the BJSS's control as to how and for what purpose the Deliverables are used by the Customer and that the allocation of risk contained in this clause 9 is reflected in the Contract Charges and is also a recognition of the fact that, inter alia, any Deliverable cannot be tested in every possible combination. Therefore BJSS does not warrant that the operation of any Software provided (or code or work under taken on Software) will:
- 9.7.1 be uninterrupted, error free or free from minor errors or defects;
- 9.7.2 be compatible with any other software used by the Customer;
- 9.7.3 meet the Customer's needs or business requirements, whether or not such needs or requirements have been communicated to BJSS.
- 9.8 The provision of this Clause 9 shall survive termination and/or expiry of this Agreement.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Nothing in this Agreement shall affect the ownership of Intellectual Property Rights owned by either party and existing prior to this Agreement or generated outside a Work Statement and separate to this Agreement which the respective party agrees to make available to the other in the course of the Work Statement (**Background IPR**).
- 10.2 If one party makes any of its Background IPR available to the other party in the course of a Work Statement or as part of the Services under this Agreement, such party shall grant an irrevocable, royalty free, worldwide, perpetual licence to such Background IPR.
- 10.3 The party receiving such Background IPR shall treat it as Confidential Information disclosed under clause 12 below, and shall not disclose it to a third party nor use it for any purposes other than that for which it was made available to that party. Each party agrees to make any Background IPR which is relevant to the Work Statement available to the other solely for the purposes of undertaking the Services in accordance with the Work Statement.
- 10.4 The parties acknowledge and agree, that as between the parties, all Intellectual Property Rights arising out of or in relation to the provision of the Services and / or the Deliverables under this Agreement and any Work Statement, including all materials embodying such rights (**Resulting IPR**) shall vest in BJSS to the fullest extent permissible by law. For the avoidance of doubt, the ownership of such Resulting IPR shall apply whether such Resulting IPR has been made by the Customer, BJSS and / or any Contractor separately or by the parties jointly.
- 10.5 BJSS grants the Customer a revocable, royalty free, worldwide, non-assignable licence to use the Resulting IPR in order to obtain the benefit of the Services and/or the Deliverables. The grant of the licence under this clause 10.5 is subject to the Company paying the Contract Charges. If the Customer fails to pay the Contract Charges in accordance with the terms of the Agreement, BJSS may suspend the licence granted under this clause 10.5 until the Customer has paid such Contract Charges.
- 10.6 The Customer shall,:
- 10.6.1 promptly disclose to BJSS any Resulting IPR which may come into being;
 - 10.6.2 assign with full title guarantee all Resulting IPR to BJSS;
 - 10.6.3 hold on trust for BJSS any rights in Intellectual Property Rights in which legal title has not (or will not) pass to BJSS;
 - 10.6.4 do everything that BJSS may reasonably require to assist it to obtain and maintain absolute title in the Resulting IPR and to register them in the name of BJSS;
 - 10.6.5 undertake such acts and execute such documents to give effect to the provisions of this clause promptly when requested by BJSS to do so, and, if the Customer does not do so, the directors of BJSS are hereby authorised to do so in the Customer's name;
 - 10.6.6 do everything that BJSS may reasonably require to assist it to obtain and maintain protection for any inventions, modifications, enhancements and adaptations with which the Customer may be involved during the provision of the Services. The Customer agrees, that it will undertake such acts and execute such documents to give effect to the provisions of the Agreement promptly when requested by BJSS to do so, and, if they do not do so, the directors of BJSS are hereby authorised to do so in their name.

11. DATA PROTECTION

- 11.1 For the purpose of this clause 11, "**Controller**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**", "**Process**", "**Processed**", "**Processing**", "**Processor**", and "**Supervisory Authority**" and shall have the meanings given to them in the Data Protection Legislation.
- 11.2 The parties each acknowledge and agree that they may need to Process the other party's Contact Data (in their respective capacities as Controllers) under and in connection with this Agreement for the purposes of facilitating this Agreement (or for such other purposes

as may be agreed with the other party from time to time) and each party shall only do so in accordance with: (a) their respective privacy policies (copies of which shall be provided by each party to the other following the commencement of this Agreement); and (b) Data Protection Legislation.

- 11.3 For the purposes of this Agreement, the parties acknowledge and agree that BJSS shall be deemed an independent Controller in relation to BJSS Data and the Customer shall be deemed an independent Controller in relation to Customer Data.
- 11.4 As independent Controllers, each party shall (and BJSS shall procure that each Contractor shall):
 - 11.4.1 comply with Data Protection Legislation and shall not by its act or omission cause the other party to breach Data Protection Legislation;
 - 11.4.2 use reasonable endeavours to agree with the other party matters pertaining to a Processor who processes both BJSS Data and Customer Data; and
 - 11.4.3 notify each other of any correspondence, complaint or notification and generally co-operate in good faith and with all appropriate due diligence to resolve any issue or dispute arising in respect of BJSS Data and Customer Data, so as to protect the rights of Data Subjects in accordance with Data Protection Legislation.
- 11.5 The parties acknowledge that BJSS may Process Customer Data for and on behalf of BJSS. To the extent that BJSS (or any Contractor) Processes any Customer Data in order to perform the Services, it shall do so in accordance with Schedule 1 (Data Processor Terms).
- 11.6 The provisions of this clause 11, shall survive termination or expiry of this Agreement.

12. CONFIDENTIALITY

- 12.1 The Recipient Party shall:
 - 12.1.1 at all times keep confidential the Confidential Information and specifically not to disclose such Confidential Information (without limiting the scope of obligation as to confidentiality) to any third party (except to any of its employees, officers, representatives or advisers and in the case of BJSS, any Contractor) ("**Authorised Persons**") who need to know the relevant Confidential Information for the purpose of the performance of its obligations under this Agreement and any Work Statement) during the term of the Agreement and at any time following the date of expiry or termination of the Agreement provided that Recipient Party shall ensure that each Authorised Persons to whom Confidential Information is disclosed to is aware of confidential nature and complies with this clause 12 as if it were the Recipient Party;
 - 12.1.2 use the Confidential Information only in the of the performance of its obligations and exercise of its rights under this Agreement in accordance with the terms of the Agreement and any Work Statement (the "**Purpose**") and not for any other purpose whatsoever and make only such copies or duplicates of any Confidential Information as is necessary for the Purpose;
 - 12.1.3 maintain and reproduce on all copies (including electronic documents), the proprietary markings and other legends contained on the Confidential Information and shall not, add any further markings to such Confidential Information without the prior written consent of the Disclosing Party;
 - 12.1.4 maintain all copies in confidence in the same manner as the originals from which the copies were made;
 - 12.1.5 keep all Confidential Information separate at all times from any other confidential information within the Recipient Party's possession or control;
 - 12.1.6 ensure that the Confidential Information does not leave the premises of the Recipient Party at any time without the Disclosing Party's prior written consent;

- 12.1.7 immediately notify the Disclosing Party if it becomes aware of the possession, use or knowledge of any of the Confidential Information by any unauthorised person, whether during or after the term of the Agreement and shall provide such assistance as is reasonable to deal with such an event.
- 12.2 If the Recipient Party believes it is required by law or is otherwise obliged, to disclose any Confidential Information to any third party for any reason, the Recipient Party shall, unless prohibited by law:
- 12.2.1 provide the Disclosing Party with immediate written notice of such requirement or obligation (together with a copy of any relevant access request, court order, or other evidence giving rise to such belief) to enable the Disclosing Party to seek appropriate protective relief and/or to take steps to resist or narrow the scope of any required disclosure;
 - 12.2.2 always notify the Disclosing Party in writing of the means, content and timing of such disclosure prior to such disclosure being made;
 - 12.2.3 co-operate with the Disclosing Party with respect to such matters and will in any event ensure disclosure only of such Confidential Information as it has ascertained, after taking legal advice, it is legally compelled to disclose; and
 - 12.2.4 ensure (to the best of its ability) that all Confidential Information so disclosed is accorded confidential treatment in terms of this clause.
- 12.3 Immediately upon termination of the Agreement or at any time upon request of the Disclosing Party, the Recipient Party shall:
- 12.3.1 return all documents and any other materials that contain any Confidential Information, including all copies made, to the Disclosing Party;
 - 12.3.2 only permanently delete all electronic copies of Confidential Information from its, computer systems in its control following the express written instructions of the Disclosing Party to do so; and
 - 12.3.3 on request from the Disclosing Party certify that Confidential Information has been destroyed or permanently unusable.
- 12.4 Both parties acknowledge that any Confidential Information provided or received under the Agreement may be subject to government export control laws and regulations and agrees that it will strictly comply with all applicable requirements under such laws and regulations. As such, the Recipient Party warrants and undertakes that it will not export or transfer by any means, electronic or otherwise, any Confidential Information without complying in all respects with the applicable export control legislation, codes of conduct, the relevant export license(s), guidelines, notices and/or instructions in relation to any such export or transfer of Confidential Information.
- 12.5 Both parties acknowledge, that Confidential Information is of great value for which damages may not be an adequate remedy for any breach of this clause 12, and agrees that the Disclosing Party shall be entitled, without proof of special damage, to the remedies of an injunction or other equitable relief, in addition to any damages or remedies, for any actual or threatened breach of the terms of this Agreement.
- 13. TERMINATION AND CONSEQUENCES OF TERMINATION**
- 13.1 The Agreement and / or any Work Statement may be terminated at any time by either party upon 30 days' prior written notice to the other party.
- 13.2 The Agreement and / or any Work Statement may be terminated forthwith by either party if:
- 13.2.1 the other commits a material breach of any term of the Agreement and which in the case of a breach capable of being remedied shall not have been remedied within 30 days of a written request to remedy the same;
 - 13.2.2 the other party is subject to any Insolvency Event; or

- 13.2.3 the other party is prevented by illness, injury or otherwise from complying with its obligation under this Agreement for an aggregate period of 20 days in any period of 12 months; or
- 13.3 The Agreement and / or any Work Statement may be terminated by BJSS immediately on written notice to the Customer in the event that:
- 13.3.1 the Customer has committed an act of misconduct which BJSS considers such misconduct as so serious as to impact the trust and confidence it has in its relationship with the Customer;
- 13.3.2 the Customer is guilty of any act of fraud or dishonesty or acts in any manner which, in the opinion of BJSS brings or is likely to bring BJSS into serious disrepute and/or is materially adverse to the interests of BJSS;
- 13.3.3 the Customer fails to pay any amount due under this Agreement on the due date and such amount remains unpaid within [20] days after the Customer has received confirmation that such payment is overdue;
- 13.3.4 the Customer is in breach of any of its obligations under clause 6 (Customer' Obligations); or
- 13.3.5 the Customer is in breach of clause 18 (Restrictions).
- 13.4 At any time upon request by BJSS to the Customer, and in any event on termination or expiry of this Agreement or any Work Statement for whatever reason, the Customer:
- 13.4.1 no longer be able to use or access any Software provided by BJSS, unless and solely to the extent that such Software is required by the Customer in order to receive the benefit of any Services under a Work Statement in force at the date of termination or expiry of this Agreement or on the date of BJSS' request;
- 13.4.2 surrender to a person duly authorised by BJSS all computer programs, reports, manuals, files, notes, accounts, documents, data, correspondence, books, materials, papers and information (on whatever media and wherever located) any keys and any other property of BJSS that have been made or received by the Customer during the course of providing the Services) and which are in BJSS's and/or the Contractor's possession or under BJSS's and/or the Contractors' control and which are the property of BJSS;
- 13.4.3 having first received confirmation from BJSS or receipt of the returned information in accordance with clause 13.4.1, irrevocably delete any remaining information relating to the business of BJSS stored in any magnetic or optical drive or memory (including all matter derived from such sources which is in its possession or under its control and is outside the premises of BJSS); and
- 13.4.4 at BJSS's request, provide a signed statement that it has fully complied with clauses 13.4.1 and 13.4.3 and make any optical disc or memory available to BJSS in order to verify BJSS's and the Contractor's compliance with the same.
- 13.5 On termination of this Agreement or any Work Statement for whatever reason, BJSS shall invoice the Customer for all Services performed but not yet invoiced. Such invoices shall be paid by the Customer in accordance with clause 5.
- 13.6 The termination or expiry of this Agreement for whatever reason shall not affect any Work Statements in force at the date of such termination or expiry. Each Work Statement shall expire or be terminated by the parties in accordance with its terms.
- 13.7 Any termination of the Agreement pursuant to this clause 13 shall be without prejudice to any other rights or remedies a party may be entitled to under the Agreement and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 14. FORCE MAJEURE**
- 14.1 Neither party will be liable for any delay in performing or failure to perform any of its obligations under this Agreement caused by an event of Force Majeure.

- 14.2 The party claiming for a Force Majeure event will promptly notify the other in writing of the reasons for the delay or stoppage (and the likely duration) and the effect of the Force Majeure event on its ability to perform any of its obligations under this Agreement and will take all reasonable steps to overcome the delay or stoppage.
- 14.3 If that party has complied with clause 14.2 its performance under this Agreement will be suspended for the period that the Force Majeure event continues, and the party will have an extension of time for performance which is reasonable. As regards such delay or stoppage:
- 14.3.1 any costs arising from the delay or stoppage will be borne by the party incurring those costs;
- 14.3.2 either party, may, if the delay or stoppage continues for more than 28 continuous days, terminate this Agreement with immediately effect on giving written notice to the other and neither party without further liability to the other party; and
- 14.3.3 the party claiming the Force Majeure Event will take all necessary steps (and in respect of BJSS shall procure that the Consultant shall take all necessary steps) to bring the Force Majeure event to a close or to find a solution by which the Agreement may be performed despite the Force Majeure event.

15. ANTI-BRIBERY AND CORRUPTION

- 15.1 Each party will comply with the Bribery Legislation.
- 15.2 Notwithstanding clause 15.1, neither party will make or receive any bribe or other improper payment, or allow any such bribe or other improper payment to be made or received on its behalf, either in the United Kingdom or elsewhere, and each party will implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 15.3 In this clause 15, the expressions 'bribe', 'adequate procedures' and 'associated' will be construed in accordance with the Bribery Legislation and documents published under it.

16. MODERN SLAVERY

- 16.1 In performing its obligations under this Agreement each party will: (1) comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to time in force including but not limited to the Modern Slavery Act 2015; and (2) have and maintain throughout the term of this Agreement its own policies and procedures to ensure its compliance with anti-slavery and human trafficking laws.
- 16.2 BJSS's policy on modern slavery and human trafficking can be found at <https://www.bjss.com/wp-content/uploads/BJSS-Policy-Modern-Slavery-and-Human-Trafficking.pdf> (or otherwise on written request).

17. STATEMENTS

- 17.1 BJSS will not, and will procure that any Contractor will not after the date of termination or expiry of this Agreement represent itself as continuing to be engaged by or connected with the Customer except that this clause will not prevent BJSS at any time acknowledging the fact that it is or has been working with Customer.

18. RESTRICTIONS

- 18.1 The Customer shall not, without the BJSS's prior written consent for a period beginning on the Commencement Date hereof until twelve (12) months after termination of this Agreement for whatever reason, directly or indirectly solicit, interfere with or endeavour to entice away from BJSS or induce or cause a third party to induce any employee of BJSS (including any Contractors) with whom the Customer or any member of its Group has had contact in connection with this Agreement or any Work Statement, to enter into a contract for service or a contract of employment with the Customer or any member of its Group.
- 18.2 For purpose of this clause 18, **Group** means the Customer, any subsidiary or holding company from time to time of the Customer and any subsidiary from time to time of a holding company of the Customer.

19. NOTICES

- 19.1 Any notice or other communications to be given under the Agreement shall be in writing and may be delivered by hand or sent by first class prepaid recorded delivery post (or if the recipient is in another country by prepaid airmail) to the relevant address(es) stated in the Agreement (or to such other address as the addressee may from time to time have notified for that purpose) or sent by facsimile transmission.
- 19.2 Communications shall be deemed to have been received, if delivered by hand at the time of delivery, if posted, 3 working days (or 10 working days if prepaid airmail) after posting.

20. GENERAL

- 20.1 All other warranties, terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 20.2 No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Agreement by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 20.3 The parties acknowledge and agree that this Agreement shall not establish or constitute any relationship of partnership, joint venture, franchise or agency between the parties except as otherwise expressly provided or agreed and neither party shall have the power to bind the other without the other's prior written consent.
- 20.4 The Customer shall not assign all or any of its rights or obligations under the Agreement without the written consent of BJSS. BJSS may freely assign, delegate, sub-contract or otherwise transfer its rights and obligations under this Agreement and/or any Work Statement to any third party with which it may merge or to any third party to which it may transfer its assets and/or undertaking, provided that it gives prior written notice to the Customer.
- 20.5 References to either party shall include its personal representatives, permitted assigns and successors in title.
- 20.6 The terms of this Agreement and any Work Statement which expressly or by their nature are designed to, shall survive termination or expiry of this Agreement.
- 20.7 Each party shall at the request of the other, and at the cost of the requesting party, do all acts and execute all documents which are necessary to give full effect to this Agreement.
- 20.8 No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.
- 20.9 The parties agree that this Agreement, any Work Statement, together with any undertakings given by the Contractors to BJSS, constitutes the entire agreement between them relating to the Services and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 20.10 Each party acknowledges that it has not entered into this Agreement or any Work Statement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement or any Work Statement except in the case of fraudulent misrepresentation. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.
- 20.11 Except as expressly provided (including in respect of any indemnity or otherwise), the parties do not intend any term of the Agreement to create any rights or benefits to any other party other than the parties to the Agreement or to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 20.12 If any provision or part provision of the Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Agreement shall not be affected. In the event of the invalidity or unenforceability of any provision of the Agreement or of the application thereof to any person or circumstances, the parties shall negotiate in good faith to agree on changes or amendments to the

Agreement which are required to carry out the intent and accomplish the purpose of the Agreement in the light of such invalidity or unenforceability.

20.13 Any amount that Customer owes to BJSS under this Agreement, whether now or at any time in the future, whether it is liquidated or not and whether it is actual or contingent, may be set off from any amount due to the Customer from BJSS under this Agreement. Any exercise by BJSS of its rights under this clause 20.13 shall not prejudice any other right or remedy available to it, whether under this Agreement or otherwise.

21. GOVERNING LAW AND JURISDICTION

21.1 This Agreement and any dispute or claim arising out of, or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

21.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

Signed for and on behalf of BJSS Limited

Signed for and on behalf of the
Customer

By

By

Name

Name

Title

Title

Date

Date

Schedule 1 – Data Processor Terms

The parties acknowledge and agree that to the extent BJSS Processes Customer Data, the following terms shall apply.

1. Data Processor Terms

1.1. As Processor, BJSS shall, and shall procure that any Contractor shall:

- 1.1.1. shall only be entitled to Process Customer Data for the duration of the Agreement or the relevant Work Statement unless otherwise expressly provided, in which case the Processing shall only last as long as is necessary under (and fully in compliance with) the Data Protection Legislation (the "Duration") and only to the extent necessary for the provision of Services to the Customer (the "Purpose"). The subject-matter of the Processing of the Customer Data is set out in this Agreement and further detailed in the Work Statement (the "Subject-Matter") and the nature and purpose of the Processing is the Purpose. The Data Subjects whose Customer Data BJSS is entitled to Process are those Data Subjects as necessary for the provision of the Services (the "Categories of Data Subjects"), and the types of Customer Data which BJSS may Process are those types of Customer Data as necessary for the provision of the Services (the "Type of Personal Data");
- 1.1.2. taking into account the nature of the processing, implement appropriate technical and organisational measures to protect the Customer Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;
- 1.1.3. not otherwise modify, amend, remove or alter the contents of the Customer Data or disclose or permit the disclosure of any of the Customer Data to any third party without the authorisation of the Customer;
- 1.1.4. at the Customer's expense, assist the Customer in its compliance with its obligations under Data Protection Legislation in respect of security of processing, carrying out data protection impact assessments (as defined in Data Protection Legislation), remedial action to be taken in response to a Personal Data Breach (including notifying Personal Data Breaches to the Supervisory Authority and affected Data Subjects) and consulting with the Supervisory Authority regarding high risk Processing, in each case insofar as it is able taking into account the nature of the processing and the information available to BJSS;
- 1.1.5. ensure that only those personnel who need to have access to the Customer Data are granted access to such Customer Data (and only for the purposes of the performance of this Agreement) and that all of the personnel required to access the Customer Data are reliable and have been informed of the confidential nature of the Customer Data and comply with the obligations set out in this Schedule 1;
- 1.1.6. not appoint a sub-processor without the prior written consent of the Customer, not to be unreasonably withheld, and ensure an agreement is entered into with the relevant sub-processor which includes the same terms set out in this schedule in relation to BJSS's processing obligations;
- 1.1.7. not transfer Customer Data to a country or territory outside the United Kingdom and European Economic Area except with the prior written consent of the Customer;
- 1.1.8. notify the Customer if it receives any: (i) request from a Data Subject to access that Data Subject's Personal Data; (ii) complaint or request relating to the Data Protection Legislation and / or (iii) correspondence from a Supervisory Authority;
- 1.1.9. notify the Customer in the event it becomes aware of any Personal Data Breach, breach of the Data Protection Legislation, or this Schedule 1;
- 1.1.10. unless otherwise required by Data Protection Legislation, BJSS shall return or delete, at the Customer's sole discretion and cost, all Customer Data upon the termination of the processing activities carried out under this Agreement, and promptly provide the Customer with a confirmation in writing that it has done so; and

- 1.1.11. permit at the Customer's cost and expense, on an annual basis, at a time pre-agreed between the parties, reasonable access by the Customer to all relevant records, files, tapes, computer systems, or any other information howsoever held by BJSS in respect of BJSS's activities pursuant to this Agreement for the sole purposes of reviewing compliance with this Schedule 1 or the Data Protection Legislation.

Schedule 2 – Hosting and Managed Services

- 1.1 The hosting and managed services provided by BJSS under this Agreement shall consist of the following [insert description] (together the "**Hosting and Managed Services**").
- 1.2 For Hosting and Managed Services **involving** the Customer's or an end user's access to and/or use of a software, application or website on a server owned by BJSS or one of the BJSS's suppliers or sub-contractors, BJSS will make such services available for access or use in accordance with service levels specified in the applicable Work Statement or as otherwise expressly agreed in writing by the parties. However, in each case, BJSS's service levels cannot be more onerous on BJSS than the applicable service level commitments of its applicable supplier or sub-contractor.
- 1.3 If the Services and/or Deliverables from BJSS under the applicable Work Statement involve using or incorporating a hosting, managed or other such service and/or deliverable (in each case a "**Cloud Service**") from a "cloud" service or platform provider (a "**Cloud Service Provider**"):
 - 1.3.1 the use of, and access to the Services is subject to the Customer continuing to have access to such Cloud Service from the Cloud Service Provider;
 - 1.3.2 a failure, fault, delay or unavailability of any kind in any Cloud Service will be treated as a Force Majeure event for the purposes of the applicable Work Statement;
 - 1.3.3 BJSS will be recorded as Digital Partner of Record for all related Azure Subscriptions (the Customer's Microsoft Partner ID (MPN ID) and/or be recognized as the AWS Partner (the Customer's AWS Partner ID) for all AWS accounts;
 - 1.3.4 the Customer will comply with all applicable acceptable use and similar flow-down terms from the Cloud Service Provider which the Cloud Services Provider is entitled to directly enforce; and
 - 1.3.5 the Customer will provide such information and co-operation as the Customer needs to comply with its obligations owed to the Cloud Service Provider.
- 1.4 The Customer will be the legal owner of the data within the hosted/managed system that is uploaded by or for the Customer.
- 1.5 On termination of the applicable Services incorporating the Cloud Service (in addition to other applicable terms in the applicable Work Statement):
 - 1.5.1 BJSS will hand over the account to the Customer within 30 (thirty) days or such longer time period expressly specified in the applicable Work Statement.
 - 1.5.2 BJSS will transfer the data/account to the Customer using the method recommended by the Cloud Services Provider at the time.
- 1.6 The Customer will comply with any additional flow-down terms required by the Cloud Service Provider. These will be specified in the applicable Work Statement or as otherwise expressly agreed in writing by the parties.