

HYPHEN8

PROFESSIONAL SERVICES AGREEMENT

1. **Purpose and Form**

1.1 This document contains the terms and conditions (which are referred to generally here as "these terms") upon which Hyphenate Limited (Company No: 08045767) registered office 20-22 Wenlock Street, London N1 7GU ("Hyphen8", also referred to as "we" or "us") offers to provide Services and Deliverable Items. Capitalised words and phrases are defined in clause 10 of these terms.

1.2 Hyphen8 enters into contract by a Letter of Engagement or Statement of Work (referred to here as the "Engagement") with the company or organisation, or individual(s) named in the Engagement (referred to in these terms as "you" or "Client" and, if more than one individual, company or organisation, contracting jointly and severally.

1.3 These terms together with the relevant Engagement Document set out the binding legal agreement (referred to here as our or the "Agreement") which govern and supercede the terms of any order for Services and any Deliverable Items to be provided by us to the Client. In the event of an inconsistency between these terms and any provisions included in an Engagement Document these terms shall prevail.

1.4 You make an Engagement by signing or approved in writing the Engagement Document before we commence any work to provide the relevant agreed Services and any Deliverable Items; however, if you request us to proceed with an Engagement before we receive your signed or approved Engagement Document, or we accept an order from you in writing, then these terms shall govern the provision of the relevant Services and any Deliverable Items.

1.5 Our Agreement is to supply Services and any Deliverable Items to you at our then current daily rates for the relevant Personnel (updated from time to time after prior notice to you) and, if applicable, at the prices and rates specified in the relevant Engagement Document (all of which are referred to as "Charges").

1.6 We undertake that we will not act as your agent or enter into any obligations on your behalf without your prior written approval .

1.7 We are willing to negotiate higher levels of liability than specified in clause 7, subject to your agreement of Charges that reflect the increase. In the absence of any agreed increase in our liability you acknowledge by signing or approving each Engagement in writing that our limit of liability, taking into account the availability of insurance and any other relevant considerations, is fair and reasonable in the circumstances.

1.8 Where from time to time the Services and any Deliverable Items we provide you are subject to

additional terms and conditions, such as the provision or use of third party products or services, those terms and conditions apply in addition to these terms.

1.9 No variation of these terms shall be effective unless it is made in writing signed by authorised representatives of both parties.

2. **Hyphen8 obligations**

2.1 Provide services

We agree to use reasonable endeavours to supply the Services and any Deliverable Items described in each Engagement Document.

2.2 Reasonable care and skill

We will discharge our obligations to you with reasonable care and skill.

2.3 Timetabling

We shall use reasonable endeavours to supply the Services and Deliverable Items in accordance with any timetable detailed in each Engagement.

2.4 Changes

If you request a change to an Engagement, such as delaying a start date; a different resource requirement; or increased scope than originally contemplated, we reserve the right to increase the applicable Charges for the relevant items; and such increases will (if you require us to) be notified to you in writing prior to our incurring any related cost and will be subject to your prior written consent. Where you request a change to an Engagement you agree we may apply our then current Change Control Policy. If the extent of changes is such as to require significant investigation or feasibility study, you agree to pay our fee for that investigation or study at applicable rates for our staff time engaged, which will be subject to your prior written consent.

2.5 Delay and Interruptions

If we are obliged to delay a start date or interruption of Services and any Deliverable Item under an Engagement for reasons beyond our reasonable control, before or within one month of that start date, or you request such a delay or interruption, you agree that our Re-assignment of Resource Policy shall apply, in addition to any specified provisions covering resource re-assignment and late start in the Engagement Document. Interruptions to our Services or delays in supplying Deliverable Items due to circumstances beyond our reasonable control or which arise from a delay in a dependency which you are responsible for, such as you providing

necessary resources, co-operation or access, are not our responsibility. We agree to use reasonable endeavours to continue with the provision of any Services and Deliverable Items under an Engagement that are not affected by any such delay.

2.6 Progress reporting and instructions

We will keep you fully informed of our activities and progress relating to an Engagement and we shall use reasonable endeavours to comply with instructions you give us from time to time in relation to the provision of Services and Deliverable Items in accordance with our Agreement.

2.7 General

We will not, except as authorised by you, for example in the course of Operative Action, act in a way to incur any liability on your behalf nor to pledge your credit. We will act in accordance with our Hyphen8 business practice guidelines in our relations with third parties dealing with you and in our relations with your employees and will carry out our obligations under our Agreement in such manner as we think best to promote your interests. We will also abide by your own policies and procedures where these have been notified to us in advance, changes to policies or policy requirements not notified to us in advance of an Engagement commencing that have any material impact on the resource, timetable or specification of any part of an Engagement shall constitute a require change notification to us under the Changes provision.

3. Client obligations

3.1 Make resources available

Our Charges cover any use we make of our existing office accommodation and equipment. Where an Engagement requires our Personnel to travel, book accommodation, incur other expenses or make use of your resources (such as telephones, office space and equipment) you will make available the resources we reasonably require at your own cost and pay for such expenses reasonably incurred to enable us to carry out and complete the relevant work. If we pay for appropriate travel and accommodation to carry out your instructions (which have previously been approved in writing with you) we will invoice you for the amounts incurred by us and supply you with receipts or other evidence, such expenses invoiced shall be payable within 14 days of invoice. If an Engagement requires us to contract for third party products and services specified in the Engagement Document or as approved by you in writing from time to time, you authorise us to contract on your behalf for those services and you indemnify us against the costs relating to such third party products and services.

3.2 Provide information

You will provide us with such information as we shall reasonably require for us to supply the Services and Deliverable Items. You accept that, even where you have provided us with access to your Personnel and

systems, your responsibility is to select and designate the information on which we should rely in carrying out the Services and providing any Deliverable Items. You authorise us to access to such information and acknowledge the supply of Services and Deliverable Items and the level of our Charges are dependent on the completeness and accuracy of such information.

3.3 Provide a point of contact

You will nominate one of your Personnel, who has authority to make decisions relevant to each Engagement and one or more of your Personnel responsible for liaison with us with skill, knowledge and experience of each of your processes, staff and technical systems and who shall be tasked to supply us information we reasonably request, as relevant to the delivery of the Engagement and where such Personnel are not set out in an Engagement Document.

3.4 Pay the applicable Charges

You will pay the Charges applicable (plus any VAT applicable) for Services and Deliverable Items within 30 days after invoice. For an agreed requirement, such as a number of days of our Personnel per month for a period, specified in an agreed Engagement Document, you agree to pay for such full requirement notwithstanding any delay or termination of the Engagement, except in the case of material breach by Hyphen8 notified in accordance with our Agreement. For continuing Services (unless we agree a single or stage payments) you agree to pay Charges, according to the amounts specified in the relevant Engagement Document, on a monthly basis unless otherwise stated, applying Hyphen8 rates, which shall be subject to adjustment from time to time on written notice. You agree no set-off reduction is applicable to any amount that has become due to us in accordance with our Agreement. Where we agree Resourcing for a Statement of Work and the Client postpones work by four consecutive weeks, or more, or terminates the Statement of Work for convenience then, without prejudice to any rights or remedies of either party, the Client agrees to pay a sum equal to 20% of the Resourcing as our Charges for Resourcing, in addition to any amount payable in respect of Services already provided under the Statement of Work.

3.5 Unpaid amounts

You agree that the Late Payment of Commercial Debts (Interest) Act 1998 (the "Act"), the Late Payment of Commercial Debts Regulations 2002 and Late Payment of Commercial Debts (Scotland) Regulations 2002 (all as amended) apply to all payments due from time to time under our Agreement.

3.6 Co-operation

You will provide and procure that your Personnel provide us such co-operation as we reasonably require in connection with the provision of Services and any Deliverable Items pursuant to an

Engagement. Such co-operation shall include: (i) the provision of such Personnel who have the relevant skill, knowledge and experience as required for information and decisions on your part required to provide the Services and progress in a timely manner with the Engagement; and (ii) where we have your authority to achieve outcomes under the Engagement, your direction to your staff to follow our instructions within the scope of that authority.

restrictions of confidentiality; or (ii) has been disclosed by a third party without any breach of confidentiality obligations. Nothing in these terms shall prevent us from making use of anything created by us and information gathered by us in the course of any Engagement for our business purposes provided that such information is in a format and is used in a manner that does not allow you, your Personnel or your business to be identified from it.

4. **Copyright**

4.1 The copyright in Deliverable Items that are specified in writing to become your copyright in our Engagement and which have been fully paid for, we hereby transfer to you (as a present and future transfer from the date it is created) excepting only any Pre-Existing Materials.

4.2 We warrant to you that:-

- (a) we own or have the right to supply to you any copyright material in any Pre-Existing Materials contained in Deliverable Items we provide under these terms. Our copyright and any copyright owned by a third party in all Pre-Existing Materials we provide from time to time is retained; and
- (b) You have the right to use Pre-Existing Materials for the purposes described in the relevant Engagement or (in the absence of any description) only for the use of your relevant Client staff roles at the time of your signing or approving the Engagement Document, but not otherwise (without our prior written consent) and not in any case for publication, sharing, sub licensing, assignment or resale.

4.3 Except as provided in clauses 4.1 and 4.2, nothing in our Agreement grants any licence or other rights to use or exploit in any way whatsoever any copyright, invention, patent, trade mark or other matter protected by intellectual property rights, whether or not protection has been registered or applied for.

5. **Confidentiality**

5.1 The provisions of this clause 5 supplement the terms of any Confidentiality Agreement already agreed between us.

5.2 All information which you notify us and designate as confidential we will keep confidential and not disclose to any third party, except that we shall be entitled to disclose your designated confidential information to any third parties who need to receive and consider the confidential information for purposes connected with the supply of Services and any Deliverable Items by us, provided that we procure that such third party shall be subject to confidentiality obligations which are at least as stringent as those set out in this clause 5. Nothing in this clause 5 will apply to the extent you have authorised the disclosure in writing of specified items or categories of Confidential Information and once the relevant Confidential Information (i) is known to third parties without

5.3 Non-disclosure and use

You hereby undertake that except and to the extent otherwise provided or permitted in clause 5.5 below you will:

- (i) keep all Confidential Information secret and confidential;
- (ii) only disclose the Confidential Information to your professional advisers, directors, officers, servants or employees who need to receive and consider the Confidential Information for purposes connected with the supply of Services and Deliverable Items by us and whose name has been notified to us;
- (iii) not disclose the Confidential Information to anyone, other than the persons referred to in clause 5.3(ii), without our prior written consent;
- (iv) not use the Confidential Information for any purpose (including, any competitive or commercial purpose) other than for purposes connected with the supply of Services and/or Deliverable Items by us;
- (v) implement security practices against any unauthorised copying, use, disclosure (whether that disclosure is oral, in writing or in any other form), access and damage or destruction;
- (vi) immediately notify us of any suspected or actual unauthorised copying, use or disclosure in any form; and
- (vii) comply with any reasonable direction issued regarding a suspected or actual breach or unauthorised disclosure or use.

5.4 You will expressly inform any person referred to in clause 5.3(ii) above of the confidential nature of the Confidential Information and the purpose for which it may be used and will procure their compliance with the terms of this clause as if they were subject to the same obligations as you.

5.5 Exceptions

You will be entitled to disclose Hyphen8 Confidential Information only to the extent that you are required to do so by any law or by any court or regulatory agency or authority, provided that, to the extent that you are permitted to do so, you notify us, in writing as soon as possible upon becoming aware of any such requirement, and in any event, prior to such disclosure.

You agree to provide us such reasonable assistance as may be required in any proceedings or representations we may make against any such disclosure.

We will be entitled to disclose your designated Confidential Information only to the extent that we can demonstrate to your satisfaction that we are required to do so by any law or by any court or regulatory agency or authority, provided that, to the extent that we are permitted to do so, we notify you, in writing as soon as possible upon becoming aware of any such requirement, and in any event, prior to such disclosure. We agree to provide you such reasonable assistance as may be required in any proceedings or representations you may make against such disclosure.

5.6 Returning Confidential Information

Following any termination in accordance with clause 9.1 or 9.2 and in any event upon receipt of a written request from us, you will return to us (or, at our option, destroy including irreversibly erasing from any telecommunications device or computer media) all relevant physical and electronic documents, data and all other materials or such parts thereof as contain or reflect any Confidential Information, together with any copies which are in your possession or control or are in the possession or control of any of your directors, officers, employees, contractors, agents or professional advisers.

Following any termination in accordance with clause 9.1 or 9.2 and in any event upon receipt of a written request from you, we will return to you (or, at your option, destroy including irreversibly erasing from any telecommunications device or computer media) all relevant documents, data and all other materials or such parts thereof as contain or reflect your designated confidential information, together with any copies which are in our possession or control or are in the possession or control of any of our directors, officers, employees, contractors, agents or professional advisers.

5.7 Interim relief and duration

We each recognise that disclosure of any Confidential Information of the other will give rise to irreparable injury which cannot be compensated fully by an award of damages. Accordingly, either party may apply to the Court to seek interim relief against the breach or threatened breach of this clause 5, in addition to any other legal remedies which may be available. We each acknowledge the obligations contained in this clause 5 continue in full force and effect after as well as before any return, destruction or erasure of Confidential Information.

5.8 Duration

The obligations under this clause 5 take effect from the earlier of the date of an Engagement or the date any Confidential Information was received and will continue until determined by mutual agreement in writing which determination shall not prejudice any accrued rights we or you have arising under our Agreement.

6. Limit of liability and indemnity

NOTHING IN THESE TERMS SHALL EXCLUDE OUR LIABILITY FOR PERSONAL INJURY OR DEATH CAUSED BY HYPHEN8'S NEGLIGENCE OR FRAUDULENT MISSTATEMENT, BUT IN RESPECT OF ALL OTHER LIABILITY:-

- A) HYPHEN8 HEREBY EXCLUDES LIABILITY FOR ANY LOSS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED IN THE NATURE OF:
- LOSS OF PROFIT,
 - LOSS OF BUSINESS OR ANTICIPATED SAVINGS; AND
 - ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE.
- B) IN RESPECT OF LOSS OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY OUR NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF STATUTORY DUTY, THE LIMIT OF HYPHEN8'S LIABILITY IN RESPECT OF ALL CLAIMS ARISING FROM ONE EVENT OR SERIES OF CONNECTED EVENTS SHALL BE ONE HUNDRED THOUSAND POUNDS STERLING (£100,000). HYPHEN8 HEREBY DISCLAIMS LIABILITY FOR ALL OTHER LOSS OR DAMAGE TO TANGIBLE PROPERTY HOWSOEVER CAUSED.
- C) OTHER THAN FOR LOSS OR DAMAGE COVERED BY A) AND B) ABOVE, AND ANY LOSS OR DAMAGE COVERED BY D) AND E) BELOW, HYPHEN8'S LIABILITY FOR ALL LOSS AND DAMAGE ARISING IN CONNECTION WITH ANY ENGAGEMENT AND OUR AGREEMENT, WHETHER ARISING FROM HYPHEN8'S NEGLIGENCE, ANY NON-CONTRACTUAL LIABILITY, BREACH OF CONTRACT, BREACH OF STATUTORY DUTY OR OTHERWISE (A "DEFAULT"), SHALL IN THE AGGREGATE BE LIMITED TO THE LESSER OF:
- (1) THE AMOUNT PAID OR PAYABLE BY THE CLIENT FOR ALL THE SERVICES (IF ANY) AND DELIVERABLE ITEMS (IF ANY) SPECIFIED IN THE RELEVANT ENGAGEMENT DOCUMENT; AND
 - (2) IN THE CASE OF AN ENGAGEMENT UNDER WHICH SERVICES AND DELIVERABLE ITEMS ARE PROVIDED OVER A PERIOD EXCEEDING 3 MONTHS, THE AMOUNT PAID OR PAYABLE BY THE CLIENT DURING ANY CONTINUOUS TWELVE MONTH PERIOD OF THE RELEVANT ENGAGEMENT.
- D) IF HYPHEN8 ACCEPTS RESPONSIBILITY FOR OPERATIVE ACTION (AS EXPRESSLY STATED IN THE RELEVANT ENGAGEMENT DOCUMENT) THE AGGREGATE LIMIT OF HYPHEN8'S LIABILITY FOR ALL LOSS AND DAMAGE ARISING IN CONNECTION WITH THE RELEVANT ENGAGEMENT OR SERIES OF CONNECTED ENGAGEMENTS SHALL BE LIMITED TO FIVE THOUSAND POUNDS STERLING (£5,000).

- E) IN RESPECT ANY CLIENT DATA LOSS HYPHEN8'S LIABILITY SHALL BE LIMITED TO FIVE THOUSAND POUNDS STERLING £5,000 FOR EACH EVENT AND SERIES OF CONNECTED EVENTS.
- F) HYPHEN8 SUPPLIES SERVICES AND DELIVERABLE ITEMS IN ACCORDANCE WITH THESE TERMS AND (UNLESS OTHERWISE EXPRESSLY SPECIFIED IN THE RELEVANT ENGAGEMENT) TO THE STANDARDS WE REASONABLY CONSIDER APPROPRIATE TO THE CHARGES APPLIED AND THE CLIENT'S INFORMATION SUPPLIED TO HYPHEN8, ACCORDINGLY HYPHEN8 DO NOT GIVE ANY ADDITIONAL WARRANTIES AND EXCEPT TO THE EXTENT PRECLUDED BY LAW, ALL IMPLIED WARRANTIES, DUTIES, CONDITIONS AND UNDERTAKINGS (INCLUDING ANY AS TO DURABILITY AND SATISFACTORY QUALITY) WHETHER IMPLIED, STATUTORY OR OTHERWISE ARE HEREBY EXCLUDED.
- G) THE CLIENT HEREBY INDEMNIFIES HYPHEN8 AND WILL KEEP HYPHEN8 FULLY AND EFFECTIVELY INDEMNIFIED AGAINST ANY LOSS AND DAMAGE ARISING FROM ANY OF THE CLIENT'S CONTENT, MATERIAL OR REQUIRED MODE OF OPERATION PROVIDED OR SPECIFIED BY THE CLIENT IN RELATION TO ANY SERVICE OR DELIVERABLE ITEM THE CLIENT CONTRACTS HYPHEN8 TO PROVIDE.
- H) ANY CLAIM BROUGHT BY EITHER PARTY THROUGH THE MINISTRY OF JUSTICE MONEY CLAIM ONLINE SHALL ONLY BE VALID IF NOTIFIED TO THE OTHER PARTY IN WRITING WITHIN 1 YEAR OF THE COMPLETION DATE OF THE RELEVANT ENGAGEMENT.

7. **Additional terms**

- 7.1 Hyphen8 shall comply with the anti-bribery obligations set out in the Schedule to these terms.
- 7.2 The parties agree to comply the additional obligations set out in the Schedule to these terms.

8. **Data Protection**

8.1 For the purposes of this clause 8, the following definitions shall apply:

Commissioner, Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Processing: have the meaning given to them in the Data Protection Legislation.

Client Personal Data: any Personal Data which Hyphen8 processes in connection with the Agreement, in the capacity of a processor on behalf of the Client.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory

requirements in force from time to time which apply to a party relation to the use of personal data (including, without limitation, the privacy and electronic communications).

Domestic Law: the law of the United Kingdom or a part of the United Kingdom.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4) of the Data Protection Act 2018).

8.2 Each party shall comply with its obligations under all Data Protection Legislation in respect of the Services to be provided under this Agreement. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

8.3 Where the parties have determined that, for the purposes of the Data Protection Legislation Hyphen8 shall process the personal data as set out in writing in the relevant Engagement Document as processor on behalf of the Client and, to the extent Hyphen8 is not a processor, the parties agree the data protection and data safeguarding conditions in the Schedule to these terms.

8.4 Without prejudice to clause 8.2, Hyphen8 shall, where the provision of the Services or Deliverable Items involves Hyphen8 being a data processor pursuant to clause 8.2, in relation to the Client Personal Data:

a) process that Client Personal Data only on the documented written instructions of the Client unless Hyphen8 are required by Domestic Law to otherwise process that Personal Data. Where Hyphen8 is relying on Domestic Law as the basis for processing Personal Data, Hyphen8 shall promptly notify the Client of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits Hyphen8 from so notifying the Client;

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

c) ensure that all personnel who have access to and/or process Client Personal Data are obliged to keep the Client Personal Data confidential;

d) not transfer any Client Personal Data to any third party without the prior written consent of the Client;

e) promptly assist the Client in responding to any request from a Data Subject and in ensuring compliance with the Client's obligations under Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with the Commissioner, supervisory authorities or other regulators and, in particular, Hyphen8 shall promptly notify the Client if it receives any complaint, notice or communication (whether from the Commissioner, any Data Subject, supervisory authority or other third party) which relates to processing of Client Personal Data;

f) notify the Client without undue delay (and no later than 48 hours) after becoming aware of a personal data breach;

g) delete or return to the Client all Client Personal Data on termination or expiry of the Agreement, and certify to the Client in writing it has done so, unless required by the Data Protection Legislation to store the Client Personal Data; and

h) maintain complete and accurate records and information to demonstrate compliance with this clause 8.4 and allow for audits by the Client or the Client's designated auditor and immediately inform the Client if, in the opinion of Hyphen8, an instruction infringes the Data Protection Legislation.

8.5 Hyphen8 shall not, without the prior written consent of the Client appoint or replace any other processor in relation to Client Personal Data or transfer any Client Personal Data to the same, or carry out, via itself or via any other processor, any processing of Client Personal Data, or transfer any Client Personal Data, outside of the UK, including processing Client Personal Data on equipment situated outside of the UK.

9. **General terms**

9.1 You may, unless otherwise agreed, terminate the Services and any the supply or completion of Deliverable Items to be provided under an Engagement at any time by giving not less than three (3) month's notice in writing, to expire at the end of the relevant period where the Engagement Document specifies a period of Services provision.

9.2 Either of us may terminate the Agreement by written notice to the other:-

- (i) if the other is in persistent breach or material breach of these terms and has failed to remedy such breach after 30 days following notice of intention to terminate specifying the relevant breach; or
- (ii) if the other is wound up (other than for the purpose of solvent amalgamation or reconstruction) or otherwise suffers an event of due process in insolvency, wrongful trading; or
- (iii) if the other is in breach of these terms and such breach cannot be remedied or is otherwise agreed to be irremediable;

and upon any such termination, without limiting any of either our or your other rights or remedies, any Deliverable Item supplied but not fully paid for shall forthwith be returned to us.

9.3 If any provision of these terms is held by a competent Court or tribunal to be unenforceable, illegal or invalid, that provision or the offending words will be deemed not to be contained in these terms (to the extent, if partially so, required for it to be enforceable, legal or valid).

9.4 Save as expressly provided in these terms, each Engagement and these terms comprise the entire agreement between you and us and no statement whether oral or in writing made by either of you or us prior to the date of acceptance of an Engagement, (which will be the date of our relevant Agreement) has been or will be relied on unless it is explicitly set out in an Engagement document.

9.5 The benefit of an Agreement entered into under these terms by you may not be transferred by you (except to a wholly owned subsidiary of the Client's holding company, if the Client is a member of a group of companies). No other assignment or transfer of this Agreement or any Engagement by you is permitted without our prior written consent.

9.6 We may communicate by means of electronic mail as well as postal services. Only a Director of Hyphen8 (or such other person as we notify you of in writing) may validly authorise any change in our Agreement or an Engagement and no change will be effective until authorised or acknowledged by him or her. This same restriction will apply in your favour if you nominate a person for this purpose and notify us accordingly.

9.7 The law of England and Wales governs Agreements between you and us and you irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

9.8 In the event of any problem, claim, or dispute arising from the Agreement, the aggrieved party shall promptly notify the other party of the existence of the problem, claim, or dispute, and each party shall promptly undertake all reasonable efforts to resolve the matter within thirty (30) calendar days of such notice. If such efforts are not successful, our and your senior executives shall confer promptly thereafter to resolve the matter amicably, and you and we shall each exert reasonable best efforts toward this solution. If the matter cannot be resolved through this process, then you and we shall submit the matter to binding arbitration, in accordance with the Arbitration Act 1996. The arbitration shall be held in London in the United Kingdom and shall utilise a single arbitrator selected by you and us, or, in the absence of agreement, appointed by the senior executive office for the time being of the Chartered Institute of Arbitrators on the application of either you or us. Judgement upon the award rendered by the arbitrator may be entered in any court having jurisdiction in matters relating to the enforcement of the award. Nothing in this clause 9.8 shall prevent a party making an application to a Court to obtain an interim remedy (including an injunction) at law or in equity in relation to a dispute.

10. **Definitions and Interpretation**

In these terms and the Agreement:

“Client” means the company, organisation or person referred to as the Client or Customer in the Engagement;

“Confidential Information” means any information in any form or medium, whether written, oral or electronically delivered, tangible or intangible, which we provide or is licensed to be made available by the Owner, including:

- (i) all business, financial, commercially sensitive, operational, technological, strategic or other information, processes or data of any kind in (without limitation);
 - (ii) information relating to our other clients and business partners;
 - (iii) software, source code, process flows, development methodologies, database designs, processes, functionality descriptions relating to management and similar systems;
 - (iv) all know-how, documentation and other materials relating to any of the works referred to above, and any related or similar works and subject-matter;
 - (v) all copies, notes and records and all related information generated by you and/or your Personnel based on or arising out of any disclosure by us; and
 - (vi) any material that is marked as "Confidential" or that a reasonable person would assume to be confidential in the circumstances;
- but Confidential Information shall not include any information:
- (a) which is or comes into the public domain or is received by you other than as a result of a breach of confidentiality;
 - (b) is independently derived by you without reference to any Confidential Information.

“Deliverable Items” means the items for delivery to you described in an Engagement Document.

“Engagement” means the relevant Services and any Deliverable Items to be provided by us to you under an Engagement Document.

“Engagement Document” means, as the case may be: an email or letter (“Letter of Engagement”) to you from our representative duly authorised to propose services and associated fees and costs; or, if provided by us, the relevant written statement of work (“Statement of Work”) or other written document from us; in either case approved by you (such as by your duly authorised representative’s email or a signed, scanned copy sent to our authorised representative) setting out the relevant Services and any Deliverable Items to be provided to you under these terms.

“Operative Action” and cognate expressions means implementing actions involving your Personnel and other resources in accordance with an agreed Engagement on your behalf.

“Owner” means the legal entity that owns any relevant rights in respect of any Confidential Information that is not Confidential Information owned by us.

“Personnel” means any employee, contractor, worker or other agent involved by the relevant party in the context relevant to an Engagement.

“Pre-Existing Materials” means any item that has been created prior to the date of the relevant Engagement and any derivative work based on such item or new version of such item from time to time.

“Resourcing” means the total resources in number of days and rates to be provided by us in accordance with the relevant Statement of Work and, as applicable, the sum equal to the Charges payable for such number of days or resource made available.

“Services” means the services for delivery to or to be made available to you pursuant to an Engagement.

Words quoted have the meaning defined in these terms. Use of words of gender or number does not exclude any other. Use of the words "such as", "include" or "including" introduce a list of examples which are not exhaustive. The use of “shall”, “must” and “will” are to be interpreted as committing full obligation of the party concerned. Where reference is made to a statute this includes all subsequent enactments, amendments, modifications and any subordinate legislation relating to that statute. Clauses in these terms may be referred to as ‘provisions’ by their title, this clause being the definitions and interpretation provision. Agreements made under these terms bind jointly and severally if we work for more than one person or entity jointly.

SCHEDULE

1. **Anti-bribery**

1.1 Hyphen8 shall:

- 1.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
- 1.1.2 comply with Client Ethics and Anti-bribery Policy supplied to Hyphen8, as Client may update them from time to time (**Relevant Policies**);
- 1.1.3 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and will enforce them where appropriate;
- 1.1.4 promptly report to Client any request or demand for any undue financial or other advantage of any kind received by Hyphen8 in connection with the performance of this agreement;
- 1.1.5 within 3 months of the date of the Engagement, and annually thereafter, certify to Client in writing signed by an officer of Hyphen8, compliance with this paragraph 1 by Hyphen8 and all persons associated with it under paragraph 1.2. Hyphen8 shall provide such supporting evidence of compliance as Client may reasonably request.

1.2 Hyphen8 shall ensure that any person associated with Hyphen8 who is performing services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on Hyphen8 in this paragraph 1 (**Relevant Terms**). Hyphen8 shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Client for any breach by such persons of any of the Relevant Terms.

1.3 For the purpose of this paragraph 1, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

2. **Data protection and data safeguarding**

The following conditions apply in respect of all Statements of Work:

- 2.1 Except to the extent if any specified in writing in the relevant Statement of Work, in providing the Services Hyphen8 does not offer to or carry out any Services that constitute Hyphen8: a) a data processor; or b) a data controller, as those terms are defined in UK Data Protection Legislation.
- 2.2 The Client may permit Hyphen8 to provide Services in the course of which Hyphen8 Personnel has Client Data or access to Client Data stored or contained in the Client's own systems. "Client Data" here means data that the Client provides to Hyphen8, or allows Hyphen8 to work with on the Client's own systems, that does not contain personal data, Client Data may be provided that is anonymised in accordance with standards current at the relevant time to eliminate personal data being processed.
- 2.3 The Client undertakes that at all relevant times the Client shall maintain adequate, secure, verified and frequent back-ups of relevant Client Data. The Client acknowledges that in providing the Services, Hyphen8 may make use of Client Data in such a manner that the Hyphen8 instance of the Client Data is no longer usable, requiring a reinstatement of the Hyphen8 copy of Client Data in the relevant development environment from the Client's original data.
- 2.4 Where the Services do not require access to Client systems the Client represents that the Client takes all responsibility to process, manipulate, modify or control its own data and report the

results, in order to allow Hyphen8 to complete the Services.

- 2.5 If any Services provided by Hyphen8 involve Hyphen8 and its Personnel having or requiring access to personal data and processing that data in the course of providing the Services as a data processor, as those terms are defined under UK Data Protection Legislation, Hyphen8 shall, without prejudice to this paragraph 2 and our Agreement, comply with the provisions Hyphen8 and the Client agree for that access and processing as shall be appended to the relevant Statement of Work. Additional Charges will apply where the Client requires Hyphen8 to process personal data.

3. Non-solicitation

- 3.1 Each party agrees that except with the other party's express written consent, at all times while the Client is engaging the Services of Hyphen8 and for twelve (12) months after the relevant Engagement terminates, neither party will solicit, directly or indirectly hire, retain (including by consultation) or encourage to leave the employment or terminate the contract period of the other party any employee or contractor of the other party that has been directly engaged in the provision of the Services or the Deliverables, except where such hire or retention is by reason of the individual's own unprompted response to a generally publicly advertised role or opportunity.
- 3.2 If either party is in breach of paragraph 3.1 of this Schedule the party in default undertakes to compensate the other party by payment on written demand specifying the individual concerned in an amount equal to 150% of the relevant individual's annual salary at the time of their leaving employment with that party.

4. Capped Estimates

- 4.1 In the context of providing Services where the Statement of Work includes agreement by Hyphen8 to provide "Capped Estimates", if the Client requests and Hyphen8 agrees to provide an estimate of resources required to complete an agreed set of objectives ("Case") defined in writing and the Client notifies Hyphen8 in writing that a written capped estimate ("Capped Estimate", as more particularly defined below in this paragraph 4) is required, the provisions of this paragraph 4 of the Schedule shall apply.
- 4.2 The Client's written notice requiring a Capped Estimate must indicate any specific requirements to be met in providing a solution for the Case. Any requirements not so specified but later requested by the Client shall, if confirmed by the Client, be a change of scope and shall be a request for a Change of the Services to be provided in connection with the Case in accordance with this Agreement.
- 4.3 Hyphen8 shall as soon as reasonably practicable after receiving a notice in accordance with paragraph 4.2 provide a Capped Estimate for a solution to the Case.
- 4.4 The Customer shall have a period of not less than 30 days in which to accept and approve the Capped Estimate, to take effect under the terms of this Agreement, in which event the Customer shall be deemed to have approved an addition to the applicable Statement of Work under this Agreement, reflecting the Capped Estimate ("Capped Estimate Work") as Services and the associated Charges specified for the resources provided by Hyphen8 in relation to the Capped Estimate, or, to the extent itemised Charges are not specified, Charges at the then prevailing rates agreed by the Client.
- 4.5 Capped Estimate Work shall be paid for in the same manner as other payments of Charges under any relevant Statement of Work and this Agreement, provided that Hyphen8 shall not charge for any time exceeding the original estimated time covered by the Capped Estimate Work, up to an additional 20% by monetary value.
- 4.6 In relation to a Capped Estimate of Work, Hyphen8 shall be entitled to charge for time expended by Hyphen8 staff in addition to the amount stated in the Capped Estimate of Work to the extent:
- 4.6.1 there are Changes to the Case covered by the Capped Estimate of Work at the Client's request or with the Client's approval;
- 4.6.2 additional time is required by reason of time incurred in relation to any of the following:

- a) installing third-party products for the Client, managing, configuring and remedying issues arising from the Client's third-party products;
- b) delays introduced by engaging with any of the Client's third party service providers;
- c) lack of or inadequate response to support requests from the Client's third party support services;
- d) any error caused by the Client's actions or omissions and which are not part of the Case scope;
- e) Client delay in response to a request to provide information or a decision required in relation to carrying out any work Hyphen8 is required to perform to complete or continue with the Case; and
- f) any lack of capacity, authority or timely availability of resources to be provided by the Client and within the Client's reasonable control.