



Master Services Agreement

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Version 1



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Master Services Agreement

BETWEEN

- I. **[Insert G-Cloud entity name]**, a company registered in **[Insert country of registration]** whose registered address is **[Insert registered address]** (the “**Customer**”); and
 - II. SAGACITY SOLUTIONS LIMITED, a company registered in England & Wales with registered number 05526751 whose registered office is at 120 Holborn, London, EC1N 2TD (the “**Supplier**”),
- (each a “**party**” and together the “**parties**”).

RECITALS

- a) The Supplier is a market leading provider of data solutions and software-based services.
- b) The Customer has requested the Supplier supply the Services (as defined below) in accordance with the terms and conditions below including each applicable Schedule and each Statement of Work (which together constitute the “**Agreement**”).

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words shall have the following meanings: -

“ Agreement ”	has the meaning ascribed to it in the Recitals;
“ Business Day ”	means a day (other than a Saturday, Sunday or public holiday in United Kingdom);
“ Change Request ”	means a written request issued by the Customer to request any modification, amendment or change to the Deliverables, Services or a Statement of Work;
“ Confidential Information ”	means all information not publicly known and which relates to the relevant party's business, products, customers or financial or other affairs including (without limitation) the Customer details, information concerned with the operation of any process, trade secrets, the marketing of any products or services, formulae, drawings, designs and any Intellectual Property Rights and all information designated as confidential or which ought reasonably to be considered confidential;
“ Data Breach ”	has the meaning ascribed to it in clause 12.8 of this Agreement;

“Data Protection Legislation”	means the United Kingdom's Data Protection Act 1998 and, from 25 May 2018, the European Union's General Data Protection Regulation and any other legislation applicable to the processing of personal data;
“Deliverables”	means all documents, products, materials or other deliverables to be provided as part of the Services as specified in the Statement of Work(s);
“Effective Date”	means [Insert date the Agreement is entered into];
“Fees”	means the fees to be charged by the Supplier and agreed with the Customer as set out in each applicable Statement of Work;
“Force Majeure Event”	has the meaning ascribed to it in clause 9 of this Agreement;
“Intellectual Property Rights”	means all intellectual property rights including any copyright, rights in trademarks, trade names, logos, patents, moral rights, know-how, database rights, methodologies, rights in confidential information, trade secrets, whether or not registered or registerable and including any representations and applications for registration of their rights and all other intellectual property rights and equivalent or similar rights existing anywhere in the world;
“RPI”	means the Retail Price Index, a measure of inflation published by the UK's Office of National Statistics;
“Software”	means any software owned and/or provided by the Supplier, including, without limitation, the range of software products developed and/or made available by the Supplier;
“Schedule”	means the schedules to this Agreement which detail the terms and conditions governing the supply of different Services provided by the Supplier (or its sub-contractors);
“Services”	means the Services to be provided by the Supplier (or its sub-contractors) (including, if applicable any software licences or SaaS services) described in this Agreement and set out in a Statement of Work;
“Supplier Intellectual Property Rights”	has the meaning ascribed to it in clause 11.1;

“Statement of Work”	means each statement of work executed by the parties in accordance with clause 4 in respect of Services to be provided;
“Technical Specification”	means the technical set of guidelines provided by the Supplier to the Customer from time to time which set out how the Customer should use the Software;
“Timetable”	means the timetable and/or time lines set out (if applicable) in each Statement of Work for the provision of Services;
VAT	Value-added tax;
“Working Hours”	means 8.30am to 5.00pm on a Business Day.

1.2 In this Agreement (except where the context otherwise requires):

- (a) a reference to:
 - (i) any party includes its successors in title and permitted assigns;
 - (ii) a “person” includes any individual, firm, body corporate, association or partnership, government or state or agency of a state, local authority or government body or any joint venture association or partnership (whether they have a separate legal personality);
 - (iii) a “company” shall be construed so as to include any company, corporation or body corporate, wherever and however incorporated or established;
 - (iv) a clause, sub-clause, paragraph, sub-paragraph, or schedule, unless otherwise specified, is a reference to a clause, sub clause, paragraph sub paragraph of or schedule to this Agreement;
 - (v) the singular includes the plural and vice versa and references to one gender include all genders;
 - (vi) “day” shall mean a period of twenty-four (24) hours running from midnight to midnight;
 - (vii) a “month” shall mean a calendar month; and
 - (viii) any other document referred to in this Agreement is a reference to that document as amended varied, novated or supplemented at any time;
- (b) a reference to a statute or statutory provision shall be construed as a reference to the laws of the United Kingdom unless otherwise specified and includes:
 - (i) any subordinate legislation made under it including all regulations, by-laws, orders and codes made thereunder;

- (ii) any repealed statute or statutory provision which it re-enacts (with or without modification); and
- (iii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it;
- (c) Any phrase introduced by the terms “including, “include” and “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (d) Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

2 SUPPLIER’S OBLIGATIONS

- 2.1 In consideration of the Fees, the Services shall be performed by the Supplier and the Deliverables delivered in accordance with the terms and conditions of this Agreement (including any instructions issued by the Customer in the form of agreed Change Requests).
- 2.2 The Supplier shall provide the Services in accordance with the Timetable or such other revised timescales as may be agreed in writing from time to time between the Customer and the Supplier.
- 2.3 Without prejudice to Clause 2.2 above, the Supplier will use reasonable endeavours to inform the Customer of any circumstances where it has reason to believe that the Services will not be provided in accordance with the relevant Timetable.
- 2.4 The Supplier warrants that it has the full power to enter into and perform this Agreement.
- 2.5 The Supplier shall:
 - 2.5.1 use reasonable endeavours to ensure that it provides personnel who are experienced, qualified, competent and trained in the areas and matters which relate to the products and/or services they are to provide;
 - 2.5.2 perform the Services with reasonable care and skill and in accordance with standard commercial practices and standards;
 - 2.5.3 allocate sufficient resources to the Services to enable it to comply with its obligations under this Agreement;
 - 2.5.4 observe, and shall ensure that its personnel observe all health and safety rules and regulations and any other safety rule and regulations and any other security requirements that apply at the Customer’s premises;
 - 2.5.5 obtain and shall maintain throughout the term of this Agreement policies of insurance [which are sufficient to meet the liabilities that the Supplier may incur under or in connection with this Agreement]. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Agreement;
 - 2.5.6 use the Software and/or receive the Services in compliance at all times with the Technical Specification; and

- 2.5.7 carry out its obligations under this Agreement in accordance with all relevant laws and regulations.

3 CUSTOMER'S OBLIGATIONS

3.1 The Customer shall:

- 3.1.1 co-operate with the Supplier in all matters relating to the provision of the Services including, without limitation, making available all relevant personnel of the Customer who the Supplier may reasonably need to liaise with in order to provide the Services;
 - 3.1.2 provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as required by the Supplier including any such access as is specified in a Statement of Work;
 - 3.1.3 provide to the Supplier in a timely manner all documents, data sources, information, items and materials in any form (whether owned by the Customer or a third party) required under a Statement of Work or otherwise reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete in all material respects;
 - 3.1.4 inform the Supplier of all health and safety and security requirements that apply at any of the Customer's premises or in connection with provision of the Services;
 - 3.1.5 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services; and
 - 3.1.6 maintain a back-up of all data that it provides to the Supplier.
- 3.2 The Supplier will not be in breach of this Agreement, nor be responsible for any delay, to the extent its failure or delay in performing an obligation is a result of the Customer not fulfilling any of its obligations set out this Agreement.
- 3.3 The Customer acknowledges and agrees that the Supplier provides no warranty or assurance in respect to the accuracy of any third party data that may be used as a reference in providing the Services including, without limitation, any third party list or database used as a reference to check the accuracy of any Deliverables.

4 SCHEDULES AND STATEMENTS OF WORK

- 4.1 The Customer shall sign each applicable Schedule **[Subject to Contract - dependent on the Services provided]** to these terms and conditions.
- 4.2 Each Statement of Work shall be agreed in the following manner:
- 4.2.1 the parties shall meet to discuss the provision of certain services by the Supplier to the Customer and the Customer shall provide the Supplier with as much information as the Supplier reasonably requests in order to, if it so wishes, prepare a draft Statement of Work for the requested Services;

- 4.2.2 in the event the Supplier receives a request for proposal from the Customer, following receipt of the information requested from the Customer, the Supplier shall, as soon as reasonably practicable either:
 - 4.2.2.1 inform the Customer that it declines to provide the requested Services; or
 - 4.2.2.2 provide the Customer with a draft Statement of Work.
- 4.2.3 if the Supplier provides the Customer with a draft Statement of Work pursuant to clause 4.2.1 or 4.2.2 the Supplier and the Customer shall discuss and agree that draft Statement of Work, which shall describe the scope of the Services to be provided, the Deliverables and the applicable Timetable; and
- 4.2.4 both parties shall sign the draft Statement of Work when it is agreed.
- 4.3 Each Statement of Work signed by the parties in accordance with clause 4.2 shall be part of this Agreement and shall not form a separate contract to it.

5 VARIATIONS TO SERVICES

- 5.1 Where either party wishes to request any modifications, amendments or changes to the Deliverables, Services or a Statement of Work, including, without limitation, where modifications result in any increase in the cost of provision of the Services to the Supplier, it will notify the other party of that fact by sending a Change Request to that party's appropriately appointed representative, specifying the nature of the modification, amendment or change in as much detail as is reasonably practicable.
- 5.2 The party in receipt of the Change Request shall within ten (10) days of its receipt from the notifying party, provide a response to the Change Request.
- 5.3 In the event the Supplier is the party in receipt of the Change Request under clause 5.2, it shall set out in its response, proposed changes to the Services, Deliverables, and Fees, as well as a revised Timetable for the implementation of the modification, amendment or change concerned and the resources needed to implement such modification, amendment or change.
- 5.4 Neither party will have any obligation to commence work or make any payment in connection with any modification, amendment or change until such changes are agreed by the parties in writing.

6 FEES AND PAYMENTS

- 6.1 The Customer will pay the Supplier the Fees, in addition to any applicable VAT, in accordance with the terms of any applicable Schedule and approved Statement of Work.
- 6.2 Notwithstanding anything to the contrary in a Statement of Work, the Supplier may increase the Fees on an annual basis with effect from each anniversary of the date of this Agreement in line with the percentage increase in the RPI in the preceding 12-month period, and the first such increase shall take effect on the first anniversary of the date of this Agreement and shall be based on the latest available figure for the percentage increase in the RPI.
- 6.3 The Supplier shall be entitled to charge the Customer in respect of: (i) any expenses; and (ii) incremental costs, which it incurs in providing the Services provided that they are reasonable.

- 6.4 Unless otherwise stated in a Statement of Work, Fees for Services will be paid by the Customer within 30 days of receipt of an invoice, to a bank account nominated by the Supplier. If the Customer fails to pay an invoice in accordance with this clause, then the Supplier shall be entitled to charge interest on any outstanding sum at a rate of 3% per annum above the base rate of Barclays Bank from the date due until paid in full.
- 6.5 All fees are payable in the currency set out in the applicable Statement of Work.

7 TERM AND TERMINATION

- 7.1 The Agreement shall come into effect on the Effective Date and shall continue until terminated in accordance with this clause 7.
- 7.2 Either party may terminate this Agreement with immediate effect by serving written notice on the other if:
- 7.2.1 the other commits any material breach of this Agreement which, if capable of remedy, is not remedied within 60 days of notice from that party specifying the breach and requiring its remedy;
 - 7.2.2 the other party is affected by a Force Majeure Event which continues for a period of three months and which prevents the other party from performing all, or a material part of, its obligations under this Agreement;
 - 7.2.3 the other party convenes a meeting of creditors;
 - 7.2.4 a proposal is made in relation to the other party for a voluntary arrangement under Part 1 of the Insolvency Act 1986;
 - 7.2.5 a proposal is made for any other composition, scheme or arrangement with (or assignment for the benefit of) the other party's creditors;
 - 7.2.6 the other party is unable to pay its debts within the meaning of section 123 Insolvency Act 1986;
 - 7.2.7 a trustee, receiver, administrative receiver or similar officer is appointed in respect of all or any part of the assets of the other party; and/or
 - 7.2.8 a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding-up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).
- 7.3 The Supplier shall be permitted terminate this Agreement with immediate effect if:
- 7.3.1 the Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;
 - 7.3.2 there is a change of control of the Customer (where "control" shall have the meaning ascribed to it in s840 of the Income and Corporation Taxes Act 1988);
- 7.4 In the event the Customer no longer has any active Statements of Work, either party shall be permitted to terminate this Agreement on 30 days' written notice.

8 CONSEQUENCES OF TERMINATION

- 8.1 On termination of this Agreement:
 - 8.1.1 all existing Statements at Work shall terminate automatically;
 - 8.1.2 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and any applicable interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt; and
 - 8.1.3 each party shall on request return any of the other party's materials which are still in its possession (which, for the avoidance of doubt, does not include any Deliverables);
- 8.2 Termination of this Agreement for any reason shall be without prejudice to the rights and remedies of either party which may have arisen on or before termination.
- 8.3 In the event of termination of this Agreement for any reason, the provisions of this Agreement shall continue to bind each party insofar as and for as long as may be necessary to give effect to their respective rights and obligations.

9 FORCE MAJEURE

No cause of action will arise if the discharge of any duty is prevented or delayed, or accrual of any liability on the part of either party is occasioned, as the case may be, by any event beyond the reasonable control of that party including any of the following: act of God, governmental act, war, fire, flood or other natural disaster, explosion or civil commotion, area specific failure in information technology or telecommunications services, and industrial action (a **"Force Majeure Event"**).

10 LIABILITY

- 10.1 Subject to clause 10.3, neither party shall in any circumstances have any liability to the other party, whether such liability arises in contract, tort (including negligence) or otherwise for:
 - 10.1.1 any indirect, special or consequential damages, loss, costs, claims or expenses of any kind;
 - 10.1.2 loss of profits;
 - 10.1.3 loss of anticipated savings;
 - 10.1.4 loss of business opportunity;
 - 10.1.5 loss of or damages to reputation or goodwill; and/or
 - 10.1.6 loss or corruption of data.
- 10.2 Subject to clause 10.3, the total aggregate liability of either party in relation to claims arising in connection to a Statement of Work, whether in contract, tort (including negligence) or otherwise arising out of or in connection with this Agreement shall in no circumstances exceed the lesser of the total Fees paid to the Supplier under the Statement of Work to which a claim relates to or £1,000,000.

- 10.3 The exclusions and limitations of liability in this Agreement shall not apply in respect of any loss suffered by either party arising out of:
- 10.3.1 the fraud and/or fraudulent misrepresentation of the party seeking to rely on the exclusion or limitation;
 - 10.3.2 death or personal injury resulting from negligence on the part of the party seeking to rely on the exclusion or limitation; and
 - 10.3.3 any liability which cannot legally be excluded or limited.

11 INTELLECTUAL PROPERTY RIGHTS

- 11.1 Unless agreed in writing with the Supplier in a Statement of Work or otherwise, the Supplier retains all Intellectual Property Rights in or relating to any and all Deliverables created by the Supplier (the **"Supplier Intellectual Property Rights"**).
- 11.2 Subject to clause 11.3, the Supplier hereby grants to the Customer a non-exclusive, non-transferable and royalty free licence to use in perpetuity any Deliverables incorporating or based upon Supplier Intellectual Property Rights and created or developed specifically for the Customer in the course of provision of the Services solely for the Customer's internal business purposes. The Customer may not share any of the Supplier Intellectual property Rights licensed to the Customer under this clause 11.2 with any third party without the express prior written consent of the Supplier.
- 11.3 The Customer acknowledges and agrees that nothing in this Agreement transfers to the Customer any ownership in or over any of the Software and, in the event the Customer is licensed to use such Software, such use shall be strictly in accordance with the terms set out in the relevant Schedule to this Agreement.
- 11.4 All materials, correspondence, records, documents and other tangible items which are provided by the Customer to the Supplier or which are made, used or held by the Supplier which relate directly or indirectly to the Services but are not Supplier Intellectual property Rights shall belong to and remain the absolute property of the Customer.
- 11.5 The Customer hereby grants to the Supplier a non-exclusive, royalty-free licence to use, copy, operate and process such materials for the purposes of performing the Services. The Supplier shall limit use of and access to such materials to persons directly involved in the provision of the Services to the Customer.
- 11.6 Subject to clause 13 and to the foregoing sub-clauses of this clause 11, the Supplier shall be entitled to use and/or develop the knowledge, experience and skills of general application gained in the course of the provision of the Services to provide and enhance its provision of services.

12 DATA PROTECTION

- 12.1 In this clause 12, the terms **"data controller"**, **"data processor"**, **"personal data"**, **"process"** and **"processing"** and **"sensitive personal data"** shall be as defined in the Data Protection Legislation.
- 12.2 The Customer and the Supplier acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor in respect of any personal data which the Supplier processes on behalf of the customer in connection with the provision of the Services.

- 12.3 The Supplier shall process the Customer's personal data only in accordance with the Customer's instructions from time to time and shall not process the personal data for any purposes other than those expressly authorised by the Customer (which, for the avoidance of doubt, includes the provision of the Services in accordance with this Agreement).
- 12.4 The Supplier shall take all reasonable steps and appropriate technical, organisational and security measures in line with good industry practice to protect against unauthorised access of, accidental loss of, destruction of or damage to the Customer's personal data and Confidential Information which comes into its possession or control in the course of providing the Services and to limit access to staff necessary for the provision of the Services, having taken reasonable steps to ensure the reliability of any persons with such access.
- 12.5 If any part of the Customer's personal data ceases to be required by the Supplier for the performance of its obligations under this Agreement, the Supplier will return to the Customer or, at the Customer's discretion, destroy such personal data as may be in the Supplier's possession or control and which either is no longer required by the Supplier or relates to a Statement of Work that has expired or terminated.
- 12.6 The Supplier shall not transmit the Customer's personal data to a country or territory outside the European Economic Area without the Customer's prior written consent.
- 12.7 The Customer represents and warrants that any personal data provided to the Supplier does not and will not include sensitive personal data, and Customer has not and shall not upload or transmit to the Supplier any sensitive personal data. The Customer acknowledges and agrees that the Supplier's systems are not intended for management or protection of sensitive personal data and may not provide adequate security for such data.
- 12.8 The Supplier shall implement and maintain a program for managing unauthorised disclosure or exposure of Customer personal data stored by or accessible through the Services (a "**Data Breach**"). In the event of a Data Breach, or in the event that Supplier suspects a Data Breach, the Supplier shall:
 - 12.8.1 promptly notify the Customer to enable the Customer to comply with its obligations under Data Protection Legislation; and
 - 12.8.2 cooperate with the Customer, relevant supervisory authorities and law enforcement agencies, where applicable, to investigate and resolve the Data Breach.

13 CONFIDENTIALITY

- 13.1 Neither party may use the other party's Confidential Information for any purpose other than in accordance with this Agreement or disclose to any other person, except with the prior consent of the other party, the contents of this Agreement or use or disclose any of the Confidential Information of the other except:
 - 13.1.1 when required to do so by law or any regulatory authority, but in those circumstances, where permitted by law or the regulatory authority, it will give the other party prompt written notice; and
 - 13.1.2 to its (or any of its parent companies) employees, contractors, directors, agents or advisers whose duties reasonably require such disclosure, on condition that the party making such disclosure ensures that each such person is informed of the obligations of confidentiality under this Agreement and complies with those obligations as if they were bound by them.

- 13.2 A breach of this clause 13 which is not capable of remedy shall be deemed a material breach of this Agreement.

14 PUBLICITY & BRANDING

- 14.1 Each party may state in its publicity and marketing materials that the other is a provider or customer of the services as described in this Agreement without referencing company sensitive or confidential data.
- 14.2 The Customer agrees to provide a quote to Sagacity for publicity and marketing purposes relating to the products and services it has acquired as described in this Agreement.

15 EMPLOYEES

To the extent the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) apply upon the Supplier commencing provision of the Services, the Customer hereby agrees to indemnify and shall keep indemnified the Supplier against all and any liabilities, obligations, loss, claims, (including any costs relating to settlement and/or termination of transferring employees' employment), expenses (including legal costs and expenses), actions, proceedings, claims, demands, damages or awards (including sums paid in settlement of the same) incurred by the Supplier by reason of any claim under TUPE or any claim arising out of or in connection with any failure by the Supplier to comply with its obligations under TUPE as a consequence of its provision of the Services.

16 NON-SOLICITATION

Neither party shall (except with the prior written consent of the other party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other party any person employed or engaged by such other party in the provision of the Services during the term of this Agreement or for a further period of 12 months after the termination of this Agreement unless any such person responds to a general advertisement of employment.

17 DISPUTE RESOLUTION

- 17.1 The parties shall attempt in good faith to resolve a dispute or claim arising out of, or in connection with, this Agreement or in respect of the legal relationships established by this Agreement prior to beginning court action.
- 17.2 Nothing in this clause 17 shall restrict the right which either party may have to seek injunctive relief in respect of a breach of this Agreement.

18 ASSIGNMENT AND SUB-CONTRACTING

- 18.1 The Customer shall not, without the prior written consent of the Supplier, assign any of its rights, or sub-contract, delegate or transfer any of its obligations under this Agreement.
- 18.2 The Supplier shall be permitted to sub-contract its obligations under this Agreement. The Supplier shall remain responsible to the Customer for the supply of the Services notwithstanding the appointment of any sub-contractor.

19 THIRD PARTY RIGHTS

The parties do not intend this Agreement or any part of it to be enforceable by any other person by virtue of the Contracts (Rights of Third Parties) Act 1999.

20 NO PARTNERSHIP

Nothing in this Agreement will be deemed to constitute a partnership between the parties, nor constitute either party the agent of the other party for any purpose.

21 WAIVER

No right, power, privilege or remedy conferred by any provision of this Agreement is intended to be exclusive of any other right, power, privilege or remedy (whether under any other provision of this Agreement, at law, in equity or otherwise). The exercise or waiver, in whole or in part, of any right, remedy or duty provided for in this Agreement will not constitute the waiver of any prior, concurrent or subsequent right, remedy or duty within the Agreement. Failure or neglect by either party to enforce at any time any of the provisions of this Agreement shall not be construed as nor shall be deemed to be a waiver of that party's rights nor in any way affect the validity of the whole or any part of this Agreement nor prejudice that party's right to take subsequent action.

22 NOTICES

22.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

22.1.1 delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

22.1.2 sent by email to the address specified in the applicable Statement of Work.

22.2 Any notice shall be deemed to have been received:

22.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

22.2.2 if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting;

22.2.3 if sent by email, at 9.00 am on the next Business Day after transmission.

22.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

23 VARIATIONS

23.1 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

24 SEVERABILITY

24.1 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction that shall not affect or impair:

24.1.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement;
or

24.1.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

25 ENTIRE AGREEMENT

25.1 This Agreement and associated Schedules/Statement of Work constitute the entire agreement between the Parties in connection with the subject matter of this Agreement, and supersedes all prior oral and written agreements, understandings, representations and correspondence.

25.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

25.3 Nothing in this clause shall limit or exclude any liability for fraud.

26 CONFLICT OF TERMS

If there is an inconsistency between any of the provisions of this Agreement, the provisions of each applicable Statement of Work shall prevail, followed by the terms of the Schedules, over these terms and conditions (except where expressly stated otherwise in these terms and conditions).

27 COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

28 GOVERNING LAW AND JURISDICTION

This Agreement will be construed in accordance with the laws of England and Wales. Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement.

APPROVAL

IN WITNESS: whereof the parties hereto have executed this Agreement through their duly authorised representatives on the dates set forth below:

Signed for and on behalf of

[insert G-Cloud entity name]

By its duly authorised representative:

Signed by:

.....

Name:

.....

Title:

.....

Date:

.....

Signed for and on behalf of

Sagacity Solutions Limited

By its duly authorised representative:

Signed by:

.....

Name:

.....

Title:

.....

Date:

.....

[SCHEDULE 1 – SOFTWARE AS A SERVICE *Subject to Contract - dependent on the Services provided*]

The Supplier agrees to provide and the Customer agrees to purchase the supply of the Supplier's software as a service offering as set out in this Schedule.

1 DEFINITIONS

1.1 In this Schedule the following words shall have the following meanings: -

“Authorised Users”	those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the SaaS Services;
“Equipment”	means the computer facility on which Software will be installed and operated and that has been approved for use in writing by the Supplier either in a Statement of Work or otherwise;
“Incident”	An event which causes a reduction in the quality of services provided to the Customer;
“Initial Term”	has the meaning ascribed to it in clause 7.1 of this Schedule;
“Priority”	means the fact or condition of being regarded or treated as more important than others. In terms of Incidents, Priority is based on the impact, the loss that the Customer is facing due to the Incident (number of users affected, financial losses or loss of reputation) and how urgently the Customer requires a resolution to the Incident;
“Renewal Term”	has the meaning ascribed to it in clause 7.2 of this Schedule;
“SaaS Services”	means the provisions of the Software through a software-as-a-service delivery model whereby the Customer is permitted to use the Software on a subscription basis and the Software is centrally hosted by the Supplier;
“SLA”	has the meaning ascribed to it in clause 5.4 of this Schedule;
“Subscription Term”	means the Initial Term and any Renewal Terms;
“Support Fees”	means the fees payable in respect of the SaaS Services Software support that the Supplier provides under clause 5 of this Schedule (and as set out in an applicable Statement of Work);
“Support Helpdesk”	has the meaning ascribed to it in clause 5.1 of this Schedule;
“User Subscriptions”	means the user subscriptions purchased by the Customer pursuant to an applicable Statement of Work which entitles Authorised Users to access and use the SaaS Services.

2 USER SUBSCRIPTIONS

- 2.1 In consideration of payment of the Fees and compliance with the restrictions set out in this Schedule, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Authorised Users to use the SaaS Services during the Subscription Term.
- 2.2 The total number of permitted Authorised Users applicable to each User Subscription shall be set out in each applicable Statement of Work.

3 SaaS SERVICES

- 3.1 The Customer acknowledges that the SaaS Services are:
 - (a) a standardised and commercially available service that has not been developed specifically for the Customer, unless agreed otherwise in writing. Therefore, it is the Customer's responsibility to understand and implement any working practice changes required to make use of the SaaS Services;
 - (b) a service that will allow the creation of bespoke rule-sets applicable only for use by the Customer; and
 - (c) powered by software which by its very nature cannot be free of bugs and errors.

4 SaaS RESTRICTIONS

- 4.1 With regard to the User Subscriptions acquired under this Agreement, in relation to each Authorised User with a User Subscription, the Customer hereby undertakes that:
 - 4.1.1 the maximum number of Authorised Users that are authorised to access and use the SaaS Services shall not exceed the number of User Subscriptions that have been purchased from time to time;
 - 4.1.2 it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the SaaS Services;
 - 4.1.3 each Authorised User shall keep a secure password for his/her use of the SaaS Services, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep his/her password confidential;
 - 4.1.4 it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within five Business Days of the Supplier's written request at any time;
 - 4.1.5 it shall permit the Supplier to audit the SaaS Services usage in order to establish the name and password of each Authorised User. Such audit may be conducted at the Supplier's expense and this right shall be exercised with reasonable prior notice in such a manner as not to substantially interfere with the normal conduct of the Customer's business (save where the Supplier has reasonable grounds for believing that unauthorised use is occurring, in which circumstances the aforementioned restrictions on auditing shall not apply); and

- 4.1.6 if any of the audits referred to in clause 4.1.5 of this Schedule reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights the Customer shall promptly disable such accounts.
- 4.2 For the avoidance of doubt, the Customer has no right to access the Software's object code, intermediate code and source code as a consequence of being provided with a User Subscription.
- 4.3 The Customer acknowledges and agrees that it shall not access, store, distribute or transmit any viruses, or any material during the course of its use of the SaaS Services that:
 - 4.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 4.3.2 facilitates illegal activity;
 - 4.3.3 depicts sexually explicit images;
 - 4.3.4 promotes unlawful violence;
 - 4.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; and/or
 - 4.3.6 is otherwise illegal or causes damage or injury to any person or property

and the Supplier reserves the right, without liability or prejudice to its other rights, to disable the Customer's access to any material that breaches the provisions of this clause 4.3 of this Schedule.
- 4.4 The Customer further undertakes not to:
 - 4.4.1 use the Software to provide services to third parties; and/or
 - 4.4.2 attempt to obtain, or assist third parties in obtaining, access to the Software.
- 4.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and, in the event of any such unauthorised access or use, the Customer hereby agrees to promptly notify the Supplier thereof.

5 SUPPORT AND SERVICE LEVEL AGREEMENT

- 5.1 In consideration for payment of the Support Fees, the Supplier shall provide the Customer with access to a helpdesk (the "**Support Helpdesk**") to enable it to request reasonable assistance in resolving technical issues associated with the SaaS Services.

- 5.2 The Support Helpdesk shall be accessible between the hours of 9am and 5pm GMT on Business Days.
- 5.3 The Customer agrees to ensure that any support calls made to the Support Helpdesk are only made by employees who are appropriately trained users of the SaaS Services and who have read the applicable Technical Specification.
- 5.4 This Service Level Agreement (“**SLA**”) applies to those Statements of Work that specify that this SLA is incorporated into provision of the SaaS Services. The SLA has been defined as follows:
- (a) Customer Service Response Time: the support teams will respond to any queries or Incidents within the timeframes specified below, dependant on their relative Priority:
 - (i) Priority 1 = 1 day (highest priority)
 - (ii) Priority 2 = 3 days
 - (iii) Priority 3 = 5 days
 - (iv) Priority 4 = 7 days (lowest priority)
 - (b) Service Outage Notification: the Supplier will give the Customer 2 days' notice of any planned outages. For example, for system upgrades and maintenance.
 - (c) Reclaiming Customer Data: following Agreement termination, the Supplier will delete the Customer's data upon the Customer's request within 30 days, subject to where the Supplier is legally obliged to retain the data.
- 5.5 In the event the Supplier fails to comply with the SLA in clause 5.4, the Customer shall be entitled to treat this as a dispute for the purpose of clause 17 (Dispute Resolution) of the terms and conditions of this Agreement.

6 SUBSCRIPTION FEES

The Customer will pay the Supplier the Fees and the Support Fees set out in the applicable Statement of Work.

7 TERM AND TERMINATION

- 7.1 The User Subscriptions shall commence on the date set out in the applicable Statement of Work and continue for the initial term set out in that Statement of Work (the “**Initial Term**”).
- 7.2 Following the expiry of the Initial Term, the User Subscriptions shall automatically renew for successive terms equal to the Initial Term (each a “**Renewal Term**”).
- 7.3 Subject to any terms to the contrary in the applicable Statement of Work, either party may terminate the User Subscriptions by giving a minimum of three (3) months' prior written notice to the other party, with such notice not to expire prior to the end of the Initial Term or any applicable Renewal Term.

8 EFFECT OF TERMINATION

On termination of the User Subscriptions for any reason the Supplier shall have the right to immediately withdraw access to the SaaS Services and the Customer shall immediately refrain from using the SaaS Services.

APPROVAL

IN WITNESS: whereof the parties hereto have executed this Agreement through their duly authorised representatives on the dates set forth below:

Signed for and on behalf of

[insert G-Cloud entity name]

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

Signed for and on behalf of

Sagacity Solutions Limited

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

[SCHEDULE 2A - MANAGED SERVICES (DATA SOLUTIONS) *Subject to Contract - dependent on the Services provided*]

The Supplier agrees to provide and the Customer agrees to purchase the supply of Managed Services as set out in this Schedule.

1 DEFINITIONS

In this Schedule the following words shall have the following meanings:

“Managed Services”	means the services required by the Customer to outsource specified business processes as set out in a Statement of Work.
“Initial Term”	has the meaning ascribed to it in clause 7.1 of this Schedule.
“Input Data”	means any data provided to the Supplier for processing when providing any of the Managed Services.
“SLA”	has the meaning ascribed to it in clause 8.4 of this Schedule.
“Support Fees”	means the fees payable in respect of the support that the Supplier provides under clause 8 of this Schedule (and as set out in an applicable Statement of Work).
“Support Helpdesk”	has the meaning ascribed to it in clause 8.1 of this Schedule.

2 SCOPE OF THE MANAGED SERVICES

- 2.1 The Supplier will perform the Managed Services in accordance with each applicable Statement of Work.
- 2.2 The scope of the Managed Services provided by the Supplier for each Statement of Work shall be set out in that Statement of Work, but may include any of the following:
- 2.2.1 defining, setting up, leading and managing projects to a successful delivery;
 - 2.2.2 provision of data solutions to improve the quality of customer data held by the Customer;
 - 2.2.3 provision of data solutions to identify and reduce revenue leakage and maximise revenue opportunity;
 - 2.2.4 provision of data solutions to identify the lifetime value of the Customer’s customers, provide insights based on the modelling on how to acquire and manage customers and implementation of revised strategies to maximise returns
 - 2.2.5 definition and implementation of reporting and analytics to meet the Customer's ongoing needs;

- 2.2.6 providing support for technical and business delivery teams.

3 SOFTWARE

The Supplier may utilise its Software when providing the Managed Services to the Customer. However, this shall not provide the Customer with any right or licence to use the Software itself unless the Customer has expressly been granted a licence or a right to use such Software pursuant to this Agreement.

4 DATA INPUT

- 4.1 The Customer shall provide the Input Data to the Supplier in the format agreed in the Technical Specification. If the Customer fails to provide the Input Data or fails to provide it in the agreed format, the Supplier shall be under no obligation to provide the Managed Services until such time as the Input Data is provided in accordance with this terms of this Agreement.
- 4.2 The Customer must transfer the Input Data to the Supplier on the date agreed in the Statement of Works. If the Customer fails to provide the data on the date agreed in a Statement of Work (or otherwise agreed between the parties), the Supplier shall be under no obligation to provide the Managed Services in accordance with the Timetable and revised timelines and any additional costs will need to be agreed between the Supplier and the Customer.
- 4.3 The Customer must transfer the Input Data to the Supplier using the secure transfer mechanism as defined by the Supplier. If the Customer fails to use the secure transfer mechanism, the Supplier shall be under no obligation to provide the Managed Services until such time as the Input Data is so provided. The Customer will be responsible for any accidental loss, destruction or damage to the Input Data caused as a result of a failure to use the secure transfer mechanism put in place by the Supplier.
- 4.4 The Customer acknowledges and agrees that it shall not access, store, distribute or transmit any viruses, or any material to the Supplier that:
 - 4.4.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 4.4.2 facilitates illegal activity;
 - 4.4.3 depicts sexually explicit images;
 - 4.4.4 promotes unlawful violence;
 - 4.4.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; and/or
 - 4.4.6 is otherwise illegal or causes damage or injury to any person or property.

5 CUSTOMER ACKNOWLEDGEMENTS

5.1 The Customer acknowledges and agrees that the Managed Services are:

- 5.1.1 a standardised and commercially available service that has not been developed specifically for the Customer, unless agreed otherwise in writing. Therefore, it is the Customer's responsibility to understand and implement any working practice changes required to make use of the Managed Services;
- 5.1.2 a service that will allow the creation of bespoke rule-sets applicable only for use by the Customer; and
- 5.1.3 powered by Software which by its very nature cannot be free of bugs and errors.

6 FEES AND PAYMENT

The Customer will pay the Supplier the Fees set out in the applicable Statement of Work.

7 TERM AND TERMINATION

- 7.1 Provision of the Managed Services shall commence on the date set out in the applicable Statement of Work and continue for the initial term set out in that Statement of Work (the "**Initial Term**").
- 7.2 Following the expiry of the Initial Term, the Supplier shall continue to provide the Managed Services on an ongoing basis unless or until they are terminated in accordance with the provisions set out in the applicable Statement of Work.
- 7.3 Save to the extent a different notice period is set out in the applicable Statement of Work, either party may terminate the Managed Services after the expiry of the Initial Term by giving a minimum of three (3) months' prior written notice to the other party.

8 SUPPORT AND SERVICE LEVEL AGREEMENT

- 8.1 In consideration for payment of the Support Fees, the Supplier shall provide the Customer with access to a helpdesk (the "**Support Helpdesk**") to enable it to request reasonable assistance in resolving technical issues associated with using the Managed Services.
- 8.2 The Support Helpdesk shall be accessible between the hours of 9am and 5pm GMT on Business Days.
- 8.3 The Customer agrees to ensure that any support calls made to the Support Helpdesk are only made by employees who are appropriately trained users of the Managed Services and who have read the applicable Technical Specification.

8.4 This Service Level Agreement (“**SLA**”) only applies to those Statements of Work that specify that this SLA is incorporated into provision of the Managed Services. The SLA has been defined as follows:

8.4.1 File Receipt: confirmation of file receipt will be provided within 2 working days.

8.4.2 Processing of the File: the file will be processed and returned to the Customer within 1 week.

8.5 In the event the Supplier fails to comply with the SLA in clause 8.4, the Customer shall be entitled to treat this as a dispute for the purpose of clause 17 (**Dispute Resolution**) of the terms and conditions of this Agreement.

APPROVAL

IN WITNESS: whereof the parties hereto have executed this Agreement through their duly authorised representatives on the dates set forth below:

Signed for and on behalf of

[insert G-Cloud entity name]

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

Signed for and on behalf of

Sagacity Solutions Limited

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

[SCHEDULE 2B - MANAGED SERVICES (CONSULTANCY) *Subject to Contract - dependent on the Services provided*]

The Supplier agrees to provide and the Customer agrees to purchase the supply of Managed Services as set out in this Schedule.

1 DEFINITIONS

In this Schedule the following words shall have the following meanings:

“Managed Services”	means the services required by the Customer to outsource specified business processes as set out in a Statement of Work.
“Initial Term”	has the meaning ascribed to it in clause 6.1 of this Schedule.
“SLA”	has the meaning ascribed to it in clause 7.1 of this Schedule.

2 SCOPE OF THE MANAGED SERVICES

- 2.1 The Supplier will perform the Managed Services in accordance with each applicable Statement of Work.
- 2.2 The scope of the Managed Services provided by the Supplier for each Statement of Work shall be set out in that Statement of Work, but may include any of the following:
 - 2.2.1 defining, setting up, leading and managing projects to a successful delivery;
 - 2.2.2 ongoing management and / or running of key Customer processes and procedures;
 - 2.2.3 provision of reporting and analytics solutions on an ongoing basis;
 - 2.2.4 providing technical/non-technical subject matter expertise to support client teams on an ongoing basis.

3 SOFTWARE

The Supplier may utilise its Software when providing the Managed Services to the Customer. However, this shall not provide the Customer with any right or licence to use the Software itself unless the Customer has expressly been granted a licence or a right to use such Software pursuant to this Agreement.

4 CUSTOMER ACKNOWLEDGEMENTS

- 4.1 The Customer acknowledges and agrees that the Managed Service is:
 - 4.1.1 a standardised and commercially available service that has not been developed specifically for the Customer, unless agreed otherwise in writing. Therefore, it is the Customer’s responsibility

- to understand and implement any working practice changes required to make use of the Managed Service;
- 4.1.2 a service that will allow the creation of bespoke rule-sets applicable only for use by the Customer; and
- 4.1.3 powered by Software which by its very nature cannot be free of bugs and errors.

5 FEES AND PAYMENT

The Customer will pay the Supplier the Fees set out in the applicable Statement of Work.

6 TERM AND TERMINATION

- 6.1 Provision of the Managed Services shall commence on the date set out in the applicable Statement of Work and continue for the initial term set out in that Statement of Work (the “**Initial Term**”).
- 6.2 Following the expiry of the Initial Term, the Supplier shall continue to provide the Managed Services on an ongoing basis unless or until they are terminated in accordance with the provisions set out in the applicable Statement of Work.
- 6.3 Save to the extent a different notice period is set out in the applicable Statement of Work, either party may terminate the Managed Services after the expiry of the Initial Term by giving a minimum of three (3) months’ prior written notice to the other party.

7 SERVICE LEVEL AGREEMENT

Any Service Level Agreement (“**SLA**”) between the parties shall be agreed in an applicable Statement of Work.

APPROVAL

IN WITNESS: whereof the parties hereto have executed this Agreement through their duly authorised representatives on the dates set forth below:

Signed for and on behalf of

[insert G-Cloud entity name]

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

Signed for and on behalf of

Sagacity Solutions Limited

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

[SCHEDULE 3 - PROFESSIONAL SERVICES *Subject to Contract-dependent on the Services provided*]

The Supplier agrees to provide and the Customer agrees to purchase the supply of Professional Services as set out in this Schedule.

1 DEFINITIONS

In this Schedule the following words shall have the following meanings:

“Professional Services”	means professional services, such as implementation, development, consultancy, and training, that the Supplier may agree to provide to the Customer as set out in a Statement of Work.
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2 SCOPE OF PROFESSIONAL SERVICES

2.1 The Supplier will perform the Professional Services in accordance with the agreed Statement of Work.

2.2 The scope of the Professionals Services provided by the Supplier for each Statement of Work shall be set out in that Statement of Work, but may include any of the following:

- 2.2.1 defining, setting up, leading and managing projects to a successful delivery;
- 2.2.2 provision of data solutions to improve the quality of customer data held by the Customer;
- 2.2.3 definition of business requirements and/or technical solutions;
- 2.2.4 definition and implementation of new processes and procedures;
- 2.2.5 definition and implementation of training and communications;
- 2.2.6 definition and implementation of reporting and analytics;
- 2.2.7 operating model reviews and target operating model implementation;
- 2.2.8 providing technical/non-technical subject matter expertise to support Customer teams

3 SOFTWARE

The Supplier may utilise its Software when providing the Professional Services to the Customer. However, this shall not provide the Customer with any right or licence to use the Software itself unless the Customer has expressly been granted a licence or a right to use such Software pursuant to this Agreement.

4 FEES AND PAYMENT

The Customer will pay the Supplier the Fees set out in the applicable Statement of Work and, unless specified otherwise, on a time and materials basis.

5 TERM AND TERMINATION

- 5.1 Provision of the Professional Services shall commence on the date set out in the applicable Statement of Work and continue on an ongoing basis unless or until they are terminated in accordance with the provisions set out in the applicable Statement of Work.
- 5.2 Subject to any terms to the contrary in the applicable Statement of Work, either party may terminate the Professional Services by giving a minimum of three (3) months' prior written notice to the other party.

APPROVAL

IN WITNESS: whereof the parties hereto have executed this Agreement through their duly authorised representatives on the dates set forth below:

Signed for and on behalf of

[insert G-Cloud entity name]

By its duly authorised representative:

Signed by:

Name:

Title:

Date:

Signed for and on behalf of

Sagacity Solutions Limited

By its duly authorised representative:

Signed by:

Name:

Title:

Date:
