



IMPERF Consulting Limited

Managed Services & Cloud Support Services

Terms and Conditions

1 Definitions and interpretation

1.1 Definitions

In this Agreement, unless the context otherwise requires:

Agreement means these terms and conditions and the Quotation to which they relate.

Business Day means a day on which banks are open for retail banking business in United Kingdom other than a Saturday or Sunday.

Client means the company, person or other entity named as the customer in the Quotation.

Commencement Date means the date determined in accordance with clause 2.

Confidential Information means in the case of each party, all of that party's information which would reasonably be regarded as confidential, disclosed or made available to the other party before or after the Commencement Date, including information relating to its business, customers, service providers, products, databases, services, strategies, or plans, but excluding information which:

- (a) the other party can prove it possessed before the relevant information was disclosed or made available to it by or on behalf of the disclosing party;
- (b) is lawfully acquired prior to the date of disclosure under this Agreement by the other party from a third person without restrictions as to its use or disclosure; or
- (c) is in or becomes part of the public domain other than as a result of the breach by the other party of this Agreement.

Coverage Hours means, unless otherwise specified in the Quotation for a Service, Business Days from 8:30 am to 5:30 pm United Kingdom time. The Quotation may specify different Coverage Hours for each Service.

CPI means the Consumer Price Index, published by the United Kingdom Department of Statistics and, if that index ceases to be published, an alternative consumer price index nominated by the Supplier.

Customer means the company, person or other entity named as the customer in the Quotation.

Customer Site means a location owned or operated by the Customer or its third-party service provider at which (or from which in the case of any Service to be provided remotely) the Services will be provided (if applicable), as specified in the Quotation.

Customer Systems means the Customer's computer systems, including all hardware and software owned by, licensed to or leased by the Customer, but excluding any Supplier Software or Supplier Hardware.

Fees means the fees payable by the Customer to the Supplier for provision of the Services as specified in the Quotation and includes any expenses or disbursements payable by the Customer as required by the Quotation.

Force Majeure means a circumstance beyond the reasonable control of a party which results in the party being unable to observe or perform on time an obligation under this Agreement.

Initial Term means, for each Service, the period nominated in the Quotation for that Service.

Insolvency Event means that:

- (a) a party enters into any arrangement between itself and its creditors;
- (b) a party ceases to be able to pay its debts as they become due;
- (c) a party ceases to carry on business;
- (d) a mortgagee enters into possession or disposes of the whole or any part of the party's assets or business;
- (e) an order is made (and not set aside within 28 days) or a resolution passed for the winding-up or dissolution of a party; or
- (f) a receiver, a receiver and manager, a trustee in bankruptcy, an administrator, a liquidator, a provisional liquidator or other like person for the party's applicable place of incorporation is appointed over the whole or any part of the party's



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assets or business.

Intellectual Property Rights means all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of know-how, trade secrets, copyright, trademarks, designs, patents and all other rights as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

Invoice has the meaning given to it in clause 9.2(a).

Managed Components means the components (if any) of the Internet, Cloud, hardware, software and any other computer infrastructure nominated in the Quotation that are located at a Customer Site and used by the Supplier to provide the Services, or in respect of which the Supplier will provide the applicable Services. Managed Components may comprise Customer Systems, Supplier Software or Supplier Hardware (or a combination of them).

Management Plan means the document (developed by the Supplier where required by the Quotation) which, in respect of one or more Services, specifies the services, materials and personnel to be contributed by each party and the responsibilities of each party relating to the Services to be provided under this Agreement. A Management Plan will only be developed where required by the Quotation.

Milestone Dates means, in respect of a specific task which is to be performed by the Supplier as part of the Services, the target date for the performance of the relevant task.

Quotation means the written quotation, which has been accepted by the Customer, which describes the Services (as applicable) that are to be provided by the Supplier to the Customer under this Agreement. The Quotation does not include any pre-sales information (including any proposal) which the Supplier may have provided to the Customer in connection with the Services.

Related Bodies Corporate has the meaning provided by section 6 of the Companies Act (Cap 50).

Renewal Term means, in respect of a Service, the further period, equal in duration to the Initial Term, during which the Supplier will continue to perform the Service.

Services means the services specified in the Quotation.

Service Period means, in respect of a Service, the Initial Term and any Renewal Term for that Service.

Supplier means IMPERF Consulting Limited whose registered is based in the UK at The Old CourtHouse, New Road Avenue, Chatham Me4 6BE with reg no:06974660

Supplier Cloud Support Services means the Supplier's digital / cloud infrastructure or any third-party licensed software (if any) hosted in a private or Public cloud or digital which the Supplier uses to perform the Services.

Supplier Hardware means the Supplier's hardware, or any third-party hardware leased or licensed by the Supplier (if any) which the Supplier uses to perform the Services.

Supplier Software means the Supplier's software or any third-party licensed software (if any) which the Supplier uses to perform the Services.

Taxes means all taxes, charges, duties and similar imposed by a government or statutory body relating to the supply or use of goods or services or otherwise arising out of this Agreement including sales tax, goods and services tax, value added tax, fringe benefits tax, undistributed profits tax, financial institutions duty, stamp duties and any interest or penalty imposed in connection with any of the preceding items but does not include income or capital gains tax.

Term has the meaning provided by clause 3.

1.2 Interpretation

In this Agreement:

- (a) The singular includes the plural and vice versa.
- (b) "Including" and similar expressions are not words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have corresponding meanings.
- (d) If something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day.
- (e) Headings are for ease of reference and do not affect the construction of this Agreement.
- (f) Money amounts are stated in United Kingdom currency GBP (£) unless otherwise specified.
- (g) The words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient.



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1.3 Interpretation – order of precedence

This Agreement is comprised of the following documents which apply in the following order of precedence:

- (a) the Quotation;
- (b) the Management Plan (if applicable); and
- (c) these terms and conditions,

with the result that any inconsistency between these documents will be resolved in favour of the earlier listed document.

2 Commencement Date

2.1 Customer's acceptance of Quotation

Subject to clause 2.2, the Commencement Date is the date the Customer notifies the Supplier of its acceptance of the Quotation.

2.2 Third Party Supplier acceptance

Where the Quotation is expressed to be subject to a third party's acceptance or approval:

- (a) the provision of the Quotation by the Supplier to the Customer is an invitation to treat;
- (b) the Customer's acceptance of the Quotation will not form a binding agreement between the Customer and the Supplier, but instead is an offer capable of acceptance by the Supplier;
- (c) following acceptance of a Quotation by the Customer, the Supplier will give notice to the Customer once that third party's acceptance or approval has been given and on the date such notice is given, an agreement is formed between the Supplier and Customer; and
- (d) the date the Supplier notifies the Customer of the third party's acceptance or approval is the Commencement Date.

3 Term

3.1 Term

The Agreement commences on the Commencement Date and will continue until the day the last Service Period for a Service under this Agreement expires.

3.2 Renewal Term

Subject to the terms of this Agreement (including the relevant Quotation), and unless the Customer or the Supplier notifies the other that it wishes to cease the relevant Service no less than 1 month prior to the last day of the Initial Term or then current Renewal Term, the Customer will continue to procure, and the Supplier will continue to perform, the Services for a further Renewal Term.

4 Management Plan

- (a) If the Quotation requires the development of a Management Plan, the parties must develop and agree the Management Plan before the Supplier provides any of the applicable Services.
- (b) The Customer and the Supplier will consult with each other and use reasonable efforts to develop the Management Plan.
- (c) The Customer will pay the Supplier for the development of the Management Plan in accordance with the Quotation.
- (d) The Management Plan will describe:
 - (1) the obligations of each party and the resources and facilities which will be provided by each party as required for the performance of the Services;
 - (2) the Service Period and, if applicable, the Milestone Dates applicable to the performance of the Services; and
 - (3) any other the details required by the Quotation.
- (e) Once the Management Plan has been developed and agreed the parties must comply with the Management Plan.

5 Services



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5.1 Obligations

- (a) The Supplier will perform the Services during the Service Period.
- (b) The provision of the Services will be subject to the terms of this Agreement, including any Service-specific provisions set out in the Quotation.
- (c) Nothing in this Agreement requires the Supplier to provide any Services to the Customer at any time when:
 - (1) the Customer has not paid for Services previously provided by the Supplier for which payment is then due; or
 - (2) the Customer has breached this Agreement and that breach has not been duly remedied.

5.2 Supplier to exercise discretion

Subject to complying with its obligations under this Agreement, the Supplier may exercise its own independent discretion as to the most appropriate and effective manner of providing the Services.

5.3 Personnel

The Customer will provide sufficient, qualified personnel capable of performing all of its duties and obligations under the Quotation and Management Plan (as applicable) and this Agreement and will provide reasonable and necessary access to its relevant personnel and resources.

6 Service provided at Customer Sites

This clause 6 applies only to the extent the Services include Managed Components or are being performed at a Customer Site.

6.1 Facilities and access

The Customer will provide the Supplier with access to the information, equipment, facilities and the Customer Site that the Supplier reasonably requires to perform the Services, including reasonable and necessary on-line access, electrical power, telephone services and working space as the Supplier may reasonably request.

6.2 Maintaining the Customer Systems

The Customer acknowledges that the Fees have been proposed by the Supplier on the basis that the Customer Systems are properly maintained and up to date and the Customer agrees to continue to maintain the Customer Systems for the Term.

6.3 Change to the Managed Components

- (a) The Customer must not substitute, remove or update the Managed Components or the Customer Systems without first procuring the consent of the Supplier; and
- (b) In giving its consent to the Customer, the Supplier may, prior to giving its consent:
 - (1) where the substitution, removal or update is performed by a third party, require the third party to brief the Supplier on all aspects of the work performed and provide the Supplier with all relevant documentation and information relating to the altered Managed Components or Customer Systems; and
 - (2) perform transition and due diligence services on the altered Managed Components or Customer Systems at the Customer's cost and expense; and
 - (3) vary any Fees or impose new fees for performing the Services.

6.4 Services Exclusions

Unless expressly specified to the contrary in the Quotation, the Services do not include the following (nor do they include services relating to any of the following):

- (a) electrical, air conditioning, building or environmental work external to the Services;
- (b) effecting changes or alterations to the configuration or specifications of the Customer Systems;
- (c) re-installation, moving or removing of the Customer Systems;
- (d) repair of damage caused by:
 - (1) the operation of the Managed Components by a person not authorized by the Customer;
 - (2) the operation of the Managed Components other than in accordance with recommended operating procedures or otherwise than in accordance with the directions or recommendations of the manufacturer or Supplier;
- (e) cleaning, painting, or refinishing any part of the Managed Components;



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- (f) re-installing moving or removing the Managed Components or accessories, supplies or other items associated with the Managed Components;
- (g) maintenance which is determined by the Supplier not to be related to the Managed Components;
- (h) rectification of defects, errors or computer viruses in any software, hardware or equipment, or repairs, support or maintenance relating to those things;
- (i) backup, preservation, translation, migration or management of data;
- (j) rectification of faults in hardware, equipment or telecommunications links or telecommunications services;
- (k) development of any software or software interfaces needed to complete any installation;
- (l) supply and installation of consumables or hardware;
- (m) rectification of errors or failures caused by failure of hardware, power, air-conditioning or other environmental failure; or
- (n) installing, transferring, moving or removing software, data, hardware or other equipment or materials.

7 Supplier Software and Supplier Hardware

This clause 7 applies only to the extent the Managed Components consist of Supplier Software or Supplier Hardware.

7.1 Supplier Software

The Customer acknowledges that it has no right, title or interest in the Supplier Software and it is only being provided to the Customer for the purposes of the Supplier performing the Services.

7.2 Supplier Hardware

- (a) The Customer acknowledges that it has no right, title or interest in the Supplier Hardware and it is only being provided to the Customer for the purposes of the Supplier performing the Services.
- (b) The parties irrevocably agree that any Supplier Hardware is not and will not become a fixture on or to the Customer Site.
- (c) On expiry of the Service Period, the Customer must cease using any Supplier Hardware, and the Customer grants the Supplier, or its authorised representatives, the right to enter the Customer Site to remove any Supplier Hardware. The Supplier agrees to make good any damage to the Customer Site caused by the Supplier carrying out the activities contemplated in this clause.
- (d) The Customer agrees, warrants and represents that it will:
 - (1) not tamper with or remove any labels identifying any Supplier Hardware as the property of the Supplier;
 - (2) not represent that it owns or otherwise attempt to sell, rent or otherwise part with the possession of any Supplier Hardware;
 - (3) not register or permit any charge or security interest to be registered or enforced with respect to any Supplier Hardware by anyone other than the Supplier;
 - (4) not interfere with or tamper with any Supplier Hardware;
 - (5) always provide adequate rack space for and ensure the safe storage of any Supplier Hardware at the Customer Site; and
 - (6) ensure that any Supplier Hardware located at the Customer Site has adequate access to electrical supply and cooling systems and is at all times maintained at a suitable operating temperature as reasonably required by the Supplier from time to time.

8 Ownership of Intellectual Property Rights

Unless expressly specified otherwise in this Agreement or the Quotation:

- (a) the Supplier (or its licensors) will own all Intellectual Property Rights in all materials and deliverables (including any software and documentation) provided by the Supplier to the Customer or created or developed by the Supplier in the course of providing the Services;
- (b) the Customer assigns to the Supplier any rights the Customer has in those materials and deliverables; and
- (c) the Supplier grants the Customer a non-transferable, non- sublicensable licence to use such materials and deliverables during the Service Period solely for its own internal business purposes. Such licence may be subject to any further terms (including those provided by the Supplier's third party licensors) that are:
 - (1) specified in the Quotation;



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(2) or otherwise notified to the Customer:

- (A) prior to its first use of such materials or deliverables; or
- (B) as and when any updated or new versions of such material or deliverables are provided.

9 Fees

9.1 Fees

The Customer must pay the Supplier the Fees in accordance with this Agreement and the Quotation.

9.2 Invoice and payment

- (a) Subject to the Quotation, the Supplier will invoice the Customer for the Fees on a monthly basis and will provide the Customer with a valid tax invoice (**Invoice**).
- (b) The Customer must pay the Supplier the amount invoiced within 14 Business Days after the date of the Invoice.

9.3 Out of scope services

Where the Supplier provides the Customer with services that are outside the scope of the services to be provided by the Supplier as set out in a Quotation, the Customer must pay the Supplier's standard hourly rates for providing those services, which standard hourly rates will be as amended by the Supplier from time to time.

9.4 Disputed invoices

If the Customer wishes to dispute an Invoice it must:

- (a) pay the Supplier all parts of the Invoice which are not the subject of a bona fide dispute; and
- (b) give the Supplier notice of the dispute and the reasons why the Customer disputes the relevant Invoice, before the due date for payment of the Invoice.

9.5 Default in payment

If the Customer fails to pay any amount payable under this Agreement by the due date then, except where the amount has been validly disputed pursuant to clause 9.4, the Supplier may (without prejudice to any other remedies to which it is entitled):

- (a) charge the Customer interest on the amount due and not paid, for the duration that the payment is outstanding by the Customer, at the Interest Rate as prevailing on the due date. The **Interest Rate** will be the prime lending rate as quoted by Bank of England plus 10% for the relevant calendar month in which the payment was due (or if that rate ceases to be quoted, the rate nominated by the Supplier); and/or
- (b) suspend performance of the Supplier's obligations under this Agreement without any liability to the Customer for any loss or damage suffered or incurred in respect of the suspension.

9.6 Other rights and obligations not affected

The exercise by the Supplier of any of the Supplier's rights under clause 9.5 does not affect:

- (a) the Customer's obligations; or
- (b) any other rights or remedies the Supplier may have in relation to the default by the Customer, under this Agreement or any other agreement between the Supplier and the Customer.

9.7 Variation

- (a) The Fees are subject to variation as set out in this clause 9.7.
- (b) If the Services are provided during a period greater than 24 months, the Fees in the Quotation will be subject to annual adjustment on the second anniversary of the Commencement Date, and on each anniversary of the Commencement Date after that, by the Supplier giving the Customer written notice. Any increase in the Fees will be calculated in accordance with the greater of:
 - (1) the change in the CPI between the relevant anniversary date and the date on which the Fees were last set or varied; and
 - (2) 5%.

9.8 Expenses



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The Customer must pay the Supplier or reimburse the Supplier for any expenses which the Customer is required to pay or incur under the Quotation or otherwise under this Agreement in order to provide the Services.

10 Confidential Information

10.1 Obligation of confidentiality

The Recipient must (except as may be required by law or with the Discloser's prior written consent):

- (a) maintain the secrecy and confidentiality of the Confidential Information;
- (b) not divulge or disclose any of the Discloser's Confidential Information to any other person, firm, corporation or entity;
- (c) only use the Discloser's Confidential Information where it is necessary to do so to enable the supply or use of the Services;
- (d) refrain from copying any of the Discloser's Confidential Information, or attempting to do the same, except where necessary to do so to enable the supply or use of the Services; and
- (e) immediately notify the Discloser of any actual or suspected unauthorised use, reproduction or disclosure of the Discloser's Confidential Information.

10.2 Disclosure required by law

If the Recipient is required by law to disclose the Discloser's Confidential Information:

- (a) the Recipient will promptly give the Discloser written notice specifying the legal requirement and the Confidential Information to be disclosed; and
- (b) the Recipient will use best endeavours to arrange for disclosure of the relevant Confidential Information in a manner which safeguards the confidentiality of the information disclosed.

10.3 Injunctions

The Recipient acknowledges and agrees that a breach of this Agreement may cause the Discloser to suffer loss, damage and expense for which damages may not be adequate compensation and may be difficult to ascertain and that the Discloser may immediately seek to restrain any actual or threatened breach of this Agreement by injunction or any similar remedy.

11 Employees and contractors

- (a) In this clause 11, Restraint Period means a period commencing on the Commencement Date and ending 2 years after the date on which the Supplier last provided any Services under this Agreement.
- (b) During the Restraint Period, the Customer will not directly or indirectly solicit for employment any person who is employed by or contracted to the Supplier.

12 Privacy

- (a) In performing their respective obligations under this Agreement, each party will comply with applicable privacy and data protection laws. In respect of any data to which the Customer gives the Supplier access or possession for the purpose of providing the Services, the Customer warrants that:
 - (1) the Supplier's access or possession (as applicable) of that data for that purpose complies with applicable privacy and data protection laws; and
 - (2) the Customer has made any disclosures or obtained any consents necessary under any applicable privacy or data protection laws for the Supplier to access or possess (as applicable) that data for that purpose.

13 Implied terms

13.1 Exclusion of implied terms

Any representation, warranty, condition, guarantee or undertaking that would be implied in this Agreement by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law.

13.2 Non-excludable rights implied by statute

Nothing in this Agreement excludes, restricts or modifies any consumer guarantee, right or remedy conferred on the Customer by the United Kingdom Law or any other applicable law that cannot be excluded, restricted or modified by agreement.



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1 Liability for breach of non-excludable rights

To the fullest extent permitted by law, the liability of the Supplier for a breach of a non-excludable guarantee referred to in clause 13.2 is limited, at the Supplier's option, to:

- (a) in the case of goods, any one or more of the following:
 - (1) the replacement of the goods or the supply of equivalent goods;
 - (2) the repair of the goods;
 - (3) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (4) the payment of the cost of having the goods repaired; or
- (b) in the case of services:
 - (1) the supplying of the services again; or
 - (2) the payment of the cost of having the services supplied again.

1 Survival of clause

Despite any other provision of this Agreement, this clause 14 survives the expiry or termination of this Agreement.

14 Liability

14.1 Limitation of liability

Subject to clause 13, the Supplier will be under no liability to the Customer or any other person in respect of:

- (a) any loss or damage of any kind that is directly or indirectly caused by or results from any wrongful, willful or negligent act or omission of the Customer or any of its officers, employees, agents or contractors;
- (b) any negligent act or omission by the Supplier; or
- (c) any indirect, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss or corruption of data or loss or damage resulting from wasted management time irrespective of whether:
 - (1) the loss or damage is caused by or relates to breach of contract, statute, tort (including negligence) or otherwise; or
 - (2) the Customer or any other person was previously notified of the possibility of the loss or damage.

14.2 Maximum liability

Subject to clause 14, the maximum aggregate liability of the Supplier for all proven losses, damages and claims arising out of this Agreement, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of the amounts paid by the Customer to the Supplier under the Quotation in relation to the particular Service which was responsible for or connected with the relevant loss, damage or claim.

14.3 No reliance on representations

- (a) The Customer warrants that it has not relied on any representation made by the Supplier which has not been stated expressly in this Agreement, or relied upon any descriptions, illustrations or specifications contained in any document including websites or publicity material produced or provided by the Supplier.
- (b) The Customer acknowledges that to the extent the Supplier has made any representation which is not otherwise expressly stated in this Agreement, the Customer has been provided with an opportunity to independently verify the accuracy of that representation.

14.4 Indemnity

The Customer will at all times indemnify and hold harmless the Supplier and its officers, employees and agents (**those indemnified**) from and against any loss, (including reasonable legal costs and expenses) or liability reasonably incurred or suffered by any of those indemnified arising from any proceedings against those indemnified where such loss or liability was caused by:

- (a) a breach by the Customer of its obligations under this Agreement; or
- (b) any willful, unlawful or negligent act or omission of the Customer.

15 Termination

15.1 Termination by Supplier



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Without limiting the generality of any other provision in this Agreement, the Supplier may suspend or terminate (or suspend then subsequently terminate) its provision of all or any of the Services under any Quotation and this Agreement immediately by notice in writing if:

- (a) the Customer fails to pay an amount owing under this Agreement within 10 Business Days of a written reminder that it is overdue;
- (b) the Customer is in breach of any term of this Agreement not relating to the payment of money and that breach is not remedied within 15 Business Days of notification by the Supplier;
- (c) the Customer suffers or commits an Insolvency Event;
- (d) the Customer, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; or
- (e) the Customer, being a natural person, dies or becomes incapacitated.

15.2 Termination by Customer

The Customer may terminate this Agreement immediately by notice in writing if:

- (a) the Supplier is in breach of any term of this Agreement and that breach is not remedied within 15 Business Days of notification by the Supplier; or
- (b) the Supplier suffers or commits an Insolvency Event.

15.3 Consequences of termination

If a notice of termination is given by the Supplier under clause 15.1 or by the Customer under clause 15.2, all monies payable to the Supplier under this Agreement (or which would have become payable but for that termination) will, to the extent permitted by law, become immediately due and payable, and:

- (a) each party may repossess any of its property in the possession, custody or control of the other party;
- (b) the Supplier may retain any monies paid;
- (c) the Supplier may charge for all Services performed in respect of which no Fees have been previously charged;
- (d) the Supplier may charge for all costs, disbursements and expenses, incurred in expectation of performing all of the requirements of the Quotation (except to the extent the Customer has already paid the applicable Fees for those items);
- (e) each party may require the other party to deliver to it or erase or destroy, or procure the delivery, erasure or destruction (as applicable), all materials containing its Confidential Information and certify its compliance with these obligations; and
- (f) each party may pursue any additional or alternative remedies provided by law.

16 Force Majeure

- (a) The Supplier will not be liable for any delay or failure to perform its obligations under a Quotation or this Agreement if that delay is due to Force Majeure.
- (b) If a delay or failure of the Supplier to perform its obligations is caused or anticipated due to Force Majeure, the performance of the Supplier's obligations will be suspended.
- (c) If a delay or failure by the Supplier to perform its obligations due to Force Majeure exceeds 60 days, either party may immediately terminate the Agreement on providing notice in writing to the other party, in which event the Supplier will not be deemed to have breached this Agreement.
- (d) If this Agreement is terminated pursuant to clause 16(c), the Supplier will refund moneys previously paid by the Customer under this Agreement for the Services which were not provided due to Force Majeure.

17 Delay

- (a) Without limiting clause 16, the Supplier will not be responsible for any delays (or costs and losses arising from delays) which occur during the course of the Services and which arise from any non-compliance by the Customer with this Agreement, an applicable Quotation or Management Plan, the late supply or provision of instructions and information by the Customer, delays in obtaining access to the Customer Site or any delays caused by the Customer's third party Suppliers and contractors.
- (b) The Supplier will be entitled to extension of time in respect of any schedule, deadline or milestone equal to the duration of any delay caused by Force Majeure or a cause specified in clause 17(a).



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18 Sub-contracts

- (a) The Supplier may sub-contract the performance of all or part of its obligations under this Agreement.
- (b) The Supplier may, without the consent of the Customer, engage individuals on a subcontract or consultancy basis, whether or not operating under a corporate structure, to assist in the provision of the Services under this Agreement.

19 Entire agreement

- (a) These terms and conditions and the Quotation constitute this Agreement which is the entire agreement between the parties for the supply of the Hardware Products and the Services and supersedes all prior representations, statements and understandings or undertakings, whether verbal or in writing.
- (b) No modification or alteration of any provision of this Agreement will be valid except those in writing signed by each party as set out in clause 27.

20 Assignment

Neither the benefits nor burdens of this Agreement may not assigned, transferred, licensed or sub-licensed by the Customer without the prior written consent of the Supplier. The Supplier may assign or novate the benefits or burdens of this Agreement to a Related Body Corporate or other entity under common ownership with the Supplier or the purchaser of all or a substantial part of the Supplier's business.

21 Waiver

- (a) No right under this Agreement will be deemed to be waived except by notice in writing signed by each party.
- (b) A waiver by the Supplier under clause 21(a) will not prejudice its rights in respect of any subsequent breach of this Agreement by the Customer.
- (c) Subject to clause 21(a), any failure by the Supplier to enforce any clause of this Agreement, or any forbearance, delay or indulgence granted by the Supplier to the Customer, will not be construed as a waiver of the Supplier's rights under this Agreement

22 Disputes

- (a) Any dispute, controversy or difference arising out of or in connection with this Agreement which cannot be settled by negotiation between the parties or their representatives will first be submitted to mediation with the United Kingdom Mediation Centre in accordance with, and subject to, the Mediation Procedure for the time being in force. The parties agree to participate in the mediation in good faith and undertake to abide by the terms of any settlement reached.

Prior to referring a matter to mediation under clause 22(a), the parties will:

- (1) formally refer the dispute to their respective contract managers for consideration; and
 - (2) if the respective contract managers are unable to resolve the dispute after 5 Business Days (or such other period as is agreed between the parties) from the date of referral, refer the dispute to the respective chief executive officers of each party.
- (b) Nothing in this clause will prevent a party from seeking urgent equitable relief before an appropriate court.

23 Supplier's rights

Any express statement of a right of the Supplier under this Agreement is without prejudice to any other right of the Supplier expressly stated in this Agreement or existing at law.

24 Survival

The covenants, conditions and provisions of this Agreement which are capable of having effect after the expiration of the Term or termination will remain in full force and effect following the expiration of the Term or termination.

25 Governing law

This Agreement will be governed by and construed in accordance with the laws in force in United Kingdom, and in the event that the parties are unable to resolve any dispute, controversy or difference in accordance with Clause 22 (a) irrevocably submit to the exclusive jurisdiction of the Courts of United Kingdom in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.



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26 Notices

- (a) Notices under this Agreement may be delivered by hand, by mail, by e-mail or by facsimile to the addresses specified in the Quotation.
- (b) Notices will be deemed given:
 - (1) in the case of hand delivery, upon delivery;
 - (2) in the case of post, 3 days after posting;
 - (3) in the case of e-mail or facsimile, upon receipt by the sender of confirmation of transmission if confirmation is received before 5.00 pm on a business day or otherwise at the commencement of the first business day following transmission.

27 Variation and change control

- (a) The provisions of this Agreement may not be varied, except by agreement in writing signed by the parties.
- (b) If either party (the **Proposing Party**) wishes to vary the Agreement:
 - (1) the Proposing Party will submit a copy of the proposed variations to the other Party (the **Receiving Party**), specifying a reasonable period in which the Receiving Party is to provide written notice of acceptance or rejection of the proposal;
 - (2) if the Receiving Party accepts the variations, the Agreement will be deemed to be so amended from the date of acceptance; and
 - (3) if the Receiving Party rejects the proposed variations, each party will perform the Agreement in accordance with the unvaried terms.

28 General

28.1 Severability

Any provision of this Agreement which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Agreement in any other case,

without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.

28.2 Further assurances

A party, at its own cost and within a reasonable time of being requested by another party to do so, must do all things and execute all documents which are reasonably necessary to give full effect to this Agreement.

28.3 No adverse construction

This Agreement is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

28.4 No right of set-off

Unless this Agreement expressly provides otherwise, a party has no right of set-off against a payment due to another party.

29.5 Counterparts

If this Agreement consists of a number of counterparts, each is an original and all of the counterparts together constitute the same document.

For and on behalf of:
Signature:
Name:
Title:
Date:

For and on behalf of:
Signature:
Name:
Title:
Date:



IMPERF Consulting Limited